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TRANSPORTATION DEVELOPMENT IN THE UNITED STATES

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PREFACE

THE railroad problem is a recurrent one. In times of business prosperity, as well as in periods of economic crisis, the adjustment of our rail facilities to meet our national transportation needs has required statesmanship of a high order. On several occasions the Academy has endeavored to focus attention on the problem in the hope that a frank discussion by representatives of various interested groups would contribute to the formulation of sound public policy. Although this issue of the PROCEEDINGS records disagreement among economists, railroad executives and financiers concerning a future program for the rehabilitation of the American transportation system, it does contain a convincing analysis of the plight of the railroads, as they emerge from the prolonged depression, and constructive proposals designed to aid them in their present competition with highways, waterways and airways—proposals which raise the insistent question of the desirablity of federal regulation of all transportation agencies.

These papers constituted the program of the Fifty-Sixth Annual Meeting of the Academy of Political Science, held at the Hotel Astor in New York City on November 12, 1936. The officers of the Academy are deeply indebted to the distinguished speakers, who participated in the three sessions, and to the efficient Committee on Program and Arrangements, the membership of which included Arthur M. Anderson (Chairman), Ethel Warner (Director), Henry Bruere, W. Randolph Burgess, Nicholas Murray Butler, Louis K. Comstock, Walter S. Gifford, Oswald W. Knauth, Thomas W. Lamont, Samuel McCune Lindsay, George McAneny, Roswell C. McCrea, Ogden L. Mills, Wesley C. Mitchell, Shepard Morgan, William Church Osborn, William L. Ransom, Jackson E. Reynolds, George Roberts, Henry S. Sturgis, Gerard Swope, Thomas J. Watson, Leo Wolman.

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PART I

RAILROADS AND THE NATIONAL ECONOMY

INTRODUCTION *

HON. WILLIAM L. RANSOM, *Presiding*
Trustee of the Academy of Political Science

IT is a privilege to call to order this notable meeting, under the auspices of one of New York's most useful institutions—The Academy of Political Science. Before I present to you the subject and the speakers, I wish to speak briefly as to the Academy.

This is a time when America has reason to take stock, to see what are its independent agencies of informed public opinion. Thus far in America we have held fast to the idea of the open forum—free public discussion and the untrammeled presentation of views. In the judgment of many, the democratic process can function and survive only through the maintenance of institutions which have public confidence and which present reliable information and reasoned views, in aid of an enlightened public opinion. In that category, we recognize, of course, the great universities and colleges, the courts, the newspapers and magazines, the radio, and the learned professions; but I think we should also place high value upon the independent public platforms, such as that of the Academy of Political Science. For more than fifty years, this Academy has made a continuing contribution to public understanding of major economic and social problems; and the need for such an independent forum was never greater than it is today.

The Academy of Political Science selects subjects and presents speakers; it does not sponsor their views and it is not the advocate of any cause; it has no function of propaganda.

* Opening the First Session of the Fifty-sixth Annual Meeting.

Its impartial programs make no representation except that the selected subject is of public importance and that the selected speakers have something to say that is worth hearing and considering, as a part of a balanced examination of the subject.

Neither the Trustees of the Academy nor its Program Committee "take sides" on any subject discussed; individually, they may and do differ profoundly, with the speakers and with each other, on many subjects. Truly, there is need and place for such an institution and such an independent forum. It deserves the membership and support of everyone who wishes to keep open and untrammeled the processes of public opinion.

Today the Academy presents for your consideration, some of the problems of America's fifth largest industry—transportation. It was recently estimated that about ten per cent of all income in the United States, received by individuals from private industries and occupations, was provided by the transportation industry. I submit to you that there are many reasons why a symposium of informed views as to the future of American railroads is most timely.

If you will permit me to make a few observations for which the Academy is in no way responsible, I remind you that the railroads were the first industry to span the continent and unite the states. They grew and developed in typical American fashion—the creation of American enterprise, courage, invention and private capital. Courage and vision surmounted many obstacles and made many mistakes; but the result has been a tremendous investment of private capital in supplying the basic facilities of transportation, on which industry, trade and life so largely depend.

More than forty years ago, the railroads became the first nation-wide industry subjected to drastic federal control. Through the years, the intervention of government in management has become ever more active and acute. Labor costs, taxes and operating expenses have been forced relentlessly upward; rates and revenues have been forced drastically downward; the ability to obtain new capital for modernization of facilities has been hampered and impaired. The railroads have been expected to compete with other means of transportation and to keep pace with the needs of their patrons and

the progress of the art, but they have been insistently denied the means of keeping pace.

The result has been and is an industry, a vital public service, which has offered few temptations to public ownership and has diminished in attractiveness to private investors. As I see it, public ownership of the railroads, transferring to government pay rolls their vast army of employees in all parts of the country, is likely to come, if at all, not through any eagerness of government to own, but because government crushes and frustrates private enterprise and private capital to such an extent that weary investors give up their burdens gladly. The public ought to consider very carefully whether it wishes the policies of government to be such as to make a continuance of private ownership of this industry impossible and thereby virtually to compel the socialization of the railroads.

At the present time, I believe that there are many signs that the dauntless spirit and adaptability inherent in American private enterprise are challenging the obstacles and are moving forward to keep for the railroads their primacy in basic transportation. Modernization of facilities and schedules commands admiration. Teamwork between labor, management, investors and government becomes highly important. The chances of success should be frankly appraised. A great deal more than the vast investments in railway properties is staked on the success of these efforts.

The Academy invites you to think today as to the future of transportation in the United States. The views which will be presented from this platform will be sharply divergent, but will merit your most careful consideration. Today's discussion will be printed promptly in an Academy volume which will be a valuable contribution to the present-day literature of the subject.

The subject for this morning's session, under our general heading of "Transportation Development in the United States", is "Railroads and the National Economy". The first speaker will discuss as part of that first subdivision "The Relation of Airways, Highways and Waterways to the Nation's Transportation System". The speaker is Professor William J. Cunningham, Professor of Transportation at Harvard University. He has had a diversified experience, both in the

railroad industry and in the academic field. For many years following his technical education, he was identified with prominent and outstanding railroad enterprises of this country. Since 1916 he has been Hill Professor of Transportation at Harvard University. At one time, from 1918 to 1919, he was Assistant Director of Operations of the United States Railroad Administration.

From that background he will discuss the subject "The Relation of Airways, Highways and Waterways to the Nation's Transportation System". Professor Cunningham! (Applause)

THE RELATION OF AIRWAYS, HIGHWAYS AND WATERWAYS TO THE NATION'S TRANSPORTATION SYSTEM

WILLIAM J. CUNNINGHAM
Professor of Transportation, Graduate School of Business Administration, Harvard University

ONE of my friends who saw the program of this morning's session suggested that the title of my address should be abbreviated to "Wings, Wheels and Waterways". Such a title, instead of the longer one, would, perhaps, be more in keeping with the length of the allotted time. It is obviously impossible in twenty minutes to deal with the subject in comprehensive fashion. I must, therefore, confine my attention to a very few of the more important aspects. If I disappoint some of my audience who expect me to deal specifically with airways, highways or waterways, I am sorry.

In the main, my thesis is that the post-war developments in transportation facilities, so extensive in degree and so revolutionary in nature, have provided a *transportation system with a capacity far beyond the national demand for transportation service.* The nation is enjoying the benefits of service much better than ever before in expedition, flexibility, convenience, safety, dependability and charges, but because in this post-war period each agency has been developed independently, with little or no thought to a wise policy of coördination or correlation, we are now confronted with a major problem in deciding what to do about our substantial surplus in transportation capacity.

In the introductory section of his second general report, of March 1934, as Federal Coördinator of Transportation, Mr. Eastman drew attention to a striking fact. In 1920, when railroads still had a virtual monopoly of inland transportation, the investment in their roadway and equipment was approximately 19 billion dollars. Between that year and 1932 the railroad investment was increased 6⅓ billion; the pipe lines

added to their investment the sum of 424 million; the capital outlays on public highways and streets totaled 12½ billion; and the appropriations by the federal government for improvement of rivers and harbors aggregated 604 million. Allowing for the abandonment of many electric railways, the net additions to the total investment in transportation facilities in the twelve years were $19,100,000, a sum equal to the cumulative investment in railroads during their first ninety years of development. Making allowances for facilities used in purely local transportation, or which are otherwise not competitive with established agencies of transportation, Mr. Eastman gives as a conservative estimate that the capital outlay in additional transportation facilities from 1920 to 1932 was substantially 25 billion dollars. This estimate does not include governmental expenditures in aid of air transportation —beacons, radio beams and meteorological service; nor the added investment of public utilities in high power transmission lines, which supply power formerly furnished by rail-transported fuel; nor the very large investments in commercial motor vehicles, inland watercraft and aircraft, and their terminal and maintenance facilities.

The greater part of the additional investments in railroad facilities was made between 1920 and 1930. Since then railroad capital expenditures have not been substantial. The depression, however, did not materially retard the capital extension of competing forms of transportation. Indeed, the policies of the government, both federal and state, in spending public money to furnish employment, have resulted in abnormal activity in highway and waterway improvements.

There are several reasons for the spectacular enlargement of the investment in transportation facilities. As for the railroads, they had been found wanting in 1917 when overwhelmed with war traffic and again in 1920 were embarrassed when a post-war boom caused serious congestion and embargoes. Their shortcomings were due in large part to inability, because of inadequate net income, from 1910 to 1915, to keep up the former rate of additions and betterments. When the railroads were returned to private operation, after the period of war-time, federal operation, the Transportation Act of 1920 promised them a fair return on the value of their properties. There was

then a twofold stimulus for embarking upon the comprehensive program of capital expenditures—first, it would increase their traffic-carrying capacity and enable them to handle expeditiously a large volume of traffic with greater satisfaction to the public, and, second, the new capital would increase the base upon which the promised return would be earned. Although the promise to the railroads of the 1920 law proved to be a mirage, the substantial amounts of new capital devoted to additions and betterments brought fairly satisfactory returns up to 1929 in reducing unit costs of operation and in greatly improving public service. The record-breaking volume of traffic in 1929 could not have been handled without congestion or delay, if those capital expenditures had not been made.

As the railroads stand today, however, their freight traffic is about one-third less than it was in 1929, and in passenger traffic the loss is more than 50 per cent. So far as physical facilities are concerned there is a large amount of unused capacity, representing an investment upon which no return can be earned until the volume of traffic is substantially increased.

The increase in the investment in facilities devoted to highway transportation is incidental to the development and rapid growth in that form of transportation since 1920. The same observation applies to the renaissance in inland waterways. In both cases, and in smaller degree in commercial transportation by air, public policy generally has encouraged the development of competitors which would act as a check on railroad rates and as a stimulus to improvement in railroad service. Likewise, the improvements in the design and operation of pipe lines and the demonstration of their low operating costs, in addition to their suitability for gasoline as well as oil, have justified capital expenditures on a large scale for the existing far-flung system. *Yet, as in the case of railroads, there is a substantial amount of unused capacity in all of these agencies competitive with railroads—greatest in the case of inland waterways and least in the field of commercial highway transportation.*

This national problem of overexpansion of transportation facilities, with the resultant economic loss in unproductive capital, might not confront us if the long-time trend in the annual growth in ton-miles and passenger-miles had not been

interrupted by factors not allowed for in the plans of the railroads and other transportation agencies between 1920 and 1930, and if the depression from which we are now emerging had not had such an unprecedented effect in reducing transportation demand. The possibilities not adequately considered when the railroads in 1923 inaugurated their comprehensive plan for additions and betterments were at least five in number. The first is that there are relatively few territories requiring the construction of new railroads. Railroad mileage has been static since 1913. They, therefore, may not count on traffic from newly developed regions. The second is that the rate of increase in population has recently been much less than in earlier periods when there were few restrictions on immigration. The third is that the volume of export and import traffic has been seriously diminished. The fourth is that the remarkable improvements in technological processes have brought large economies in the use of fuel and in the utilization of by-products, so that a smaller amount of raw material is now needed for each unit of finished product. And the fifth is that there has been a widespread movement in relocating factories and warehouses in closer proximity to raw materials and markets, thereby reducing the distances over which commodities must be moved.

One other factor, unpredictable in 1923, has an exceedingly important bearing. The investments we have been considering are those in commercial transportation agencies—common and contract carriers who transport for hire. Threatening these carriers is the growing tendency of large industries to provide their own transportation and to use for their private purposes in their own vehicles the improved public highways and waterways. So long as the commercial carrier can perform transportation service at rates which are less than the cost to a manufacturer of using his own trucks or boats, there is no incentive for him to do his own transporting of raw materials or finished product, but when the rate charged by carriers is higher than that cost, or the service is inferior to private transportation, the manufacturer with capital to invest in trucks or boats will avail himself of the opportunity to reduce his production and distribution costs. The manufacturer, moreover, has an advantage over the common and contract carrier in that

he is not subject to the same degree of governmental regulation and escapes certain obligations which add to the cost of the "for hire" operator.

The present situation, then, is one in which we have a serious national problem in the *substantial and disturbing oversupply of commercial transportation capacity.* There is not now, and for a period of unpredictable length there is not likely to be, enough commercial traffic to maintain the solvency of all commercial carriers. The seriousness of the situation may diminish in degree as business activity increases, but against that possibility there is likelihood that the government will continue to pour large sums annually into highway, waterway and airway facilities, and that the carriers by highway, water, air and pipe line will add to their equipment and extend their services. The surplus in capacity, therefore, is likely to keep pace with the growth in transportation demand. The solution calls for wisdom and foresight, not merely from the individual viewpoint of each of the agencies affected, but also from the broad viewpoint of public interest in preserving and strengthening that which is economically sound and minimizing the pains of capital losses in the process of readjustment. Such losses, although borne in the first instances by the agencies which are weakest when tested by principles of economic soundness, are eventually assessed, in one form or another, on the public at large. The success of the ultimate solution depends in part also on fairness in treatment and due regard for the fact that there now exist important differences in the degree of public regulation and public aid.

Omitting from consideration electric railways, city bus lines, taxicabs, local trucking organizations and power transmission lines, there are five forms of inter-city transportation—railroads, motor carriers, water carriers, pipe lines and air carriers. Two of these forms—railroads and pipe lines—are financed entirely by private capital and receive no governmental subsidy, unless the land grants and other aids to the few in the early days of railroad development are considered as continuing subsidies. The other three—motor, water and air transportation—are in large part financed by, and receive continuing subsidy from, the government. The extent of subsidy in the case of water and air carriers is fairly definitely known and is sub-

stantial, especially in water transportation. In the case of motor transportation the extent of the subsidy cannot, in the light of the data now available, be stated definitely, but it is an important factor in competitive relationships with other forms of transportation. The railroads and pipe lines operate on and maintain their own rights-of-way and terminals. The commercial motor vehicles operate on highways provided, maintained and policed by the public, and to some extent use the public streets as their terminals. The water carriers operate on waterways, most of which have been improved for navigation at heavy cost to the government and are being maintained, with navigation aids, at public expense. To a large extent the water carriers, furthermore, have the use of municipal water terminals at nominal cost. The airplanes, in the use of the free airways, are guided by beacons, radio beams and radio weather service at public expense, have the use of municipal airports, and receive subsidies in the rates paid for the transportation of mail.

In one respect all five forms are similar in that each finances, maintains and operates its own equipment — locomotives and cars on railroads, trucks and busses on highways, steamboats, tugs and barges on waterways, and airplanes in the air. In practically all other respects there are substantial inequalities —in costs or charges for use and maintenance of rights-of-way and terminals, in taxation, and in the extent of public regulation. As between the five agencies the degree of inequality differs widely.

When the reports of the Federal Coördinator of Transportation on subsidies and other forms of public aid to railroad, motor, water and airplane carriers are finally published, we will know much more than we now know about the extent of such subsidies and their relation to comparative transportation costs by each agency. Until we have available the exhaustive data, analyses and conclusions of Mr. Eastman and his competent and unbiased assistants, we will be without an authoritative basis for determining for highway, water and air transportation the extent to which the so-called "hidden costs", assumed by the government, should be added to the incomplete costs which are charged to shippers and travelers by subsidized carriers competitive with rail. Without such

subsidies it is apparent that the remarkable growth in transportation by highway, water and air during the past sixteen years since 1920 would not have occurred. In the present state of transportation surplus, with a pressing necessity for a careful and comprehensive survey of each agency, with a view to the adoption of the wise public policy toward each agency, *it is vitally important that the true cost, including expenditures by the public as well as by the carriers, should be known, so that we will have a true basis for determining the economic sphere for each.* When that sphere has been found, the wise course for further encouragement or limitation will be clear.

Even without complete data relating to subsidies certain conclusions seem to be clear. We know that each form of transportation excels all others in certain respects. The railroads have no peer in the mass transportation of heavy commodities relatively long distances, and in the present state of air transportation the railroads can produce long-distance passenger-miles much more economically and safely than the air carriers. We know that the motor truck is much more flexible, speedier and cheaper, even with an allowance for possible subsidy, than any other form of transportation for the movement of merchandise relatively short distances. The motor coach, too, has its advantages in the passenger field, where distances are relatively short and service is much more flexible and convenient than by rail. The airplane excels the railroad in speed for long-distance trips and the rates, aided by governmental subsidy, are now not much more than those charged by railroads in Pullman cars on limited trains. Water transportation is inherently cheap on the natural waterways and is especially suitable for the port-to-port movement of low-grade commodities in bulk. But when the service by truck and bus is extended into the long-distance fields, their advantages vary inversely with distance, and under present conditions they are performing service that the railroads could furnish more economically on the basis of true cost. With respect to water transportation, notably on the canalized rivers, there is sound basis for the statement that a large part of the tonnage now moving on the improved inland waterways could be moved by rail more expeditiously and at lower true cost, if the shipper

were called upon to pay the hidden as well as the direct costs. And in the case of the airplane, which caters to those who respond to the time-saving appeal and are willing to pay a premium for speed, it is doubtful if the air carriers could afford to carry passengers at existing rates if the subsidies for the carriage of air mails were withdrawn and the air lines as a whole were called upon to pay for the free service they now enjoy in lighted airways, radio beams and radio weather reports.

In the Transportation Act of 1920 the friends of water transportation prevailed upon Congress to enact section 500 which is a declaration of the policy of Congress "to promote, encourage and develop water transportation, service and facilities . . . and to foster and preserve in full vigor both rail and water transportation." The same principle was embodied in the Motor Carrier Act of 1935 but in different language. Section 202 is a declaration of policy by Congress "to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest. . . . " In this case nothing is said about "fostering sound economic conditions" in railroad transportation or about "the inherent advantages" of railroads. It goes without saying, however, that the Interstate Commerce Commission, now charged with the triple duty of fostering railroads, certain waterways and interstate motor carriers, with the possibility that its fostering responsibility will sometime be extended to cover coastwise and all inland waterways as well as airways, cannot place its fostering arms about any one form of transportation without considering "the inherent advantages" of all other forms.

In his second general report (1934) as Federal Coördinator of Transportation, Mr. Eastman summarized the objective of a sound policy. He said:

> It is clear that no regulations or restrictions should be imposed on any form of transportation merely for the purpose of benefiting some other form of transportation. The test must be the public interest. On the other hand, whatever the public interest may require ought to be done no matter how it may affect private interests. These are principles which no one is likely to gainsay. Yet they need emphasis, because

private interests are vitally involved. Much of the demand for regulation and restriction of the other transportation agencies has come from the railroads, for their own protection. Equally selfish interests are uppermost in the opposition. The controversy has been largely between private interests, but it is the public interest which must be paramount and controlling.

In the final analysis the public interest requires a national transportation system so administered and controlled that service can be furnished at the lowest possible charges consistent with adequate maintenance and ability to provide the modern facilities and the character of service which the best interests of commerce and industry demand.

With this admirable summary I am in hearty accord but I would like it even more if it were definite in defining "lowest possible charges" as those which are based on total costs, including costs borne by the government.

The need of a central coördinating agency is so obvious as to require no extended argument, but there may be difference in opinion as to the form, scope and authority of such an agency. Time does not here permit me to discuss the alternatives or to support with reasons my own opinion that *the Interstate Commerce Commission, now authorized to regulate railroads, pipe lines and interstate motor carriers, with some degree of regulatory power over waterways and air-mail compensation, should have the same degree of control over each of the newer forms of transportation as it now has over railroads.* We would then have a tribunal which could deliberately establish a national policy under which each form of transportation could be fostered and protected in the fields in which it has economic superiority; the public would have the advantage of a coördinated system in which each agency would serve in the field in which it can best serve; wasteful duplication would be avoided; the true inclusive cost could be reduced; and the quality of service, because of elimination of needless waste, could be bettered.

Remarks by the Chairman

Hon. William L. Ransom: In behalf of the Academy I thank you, Professor Cunningham, for this clear and comprehensive survey of the transportation situation, with which this conference is most appropriately opened.

In considering the railroads and the national economy, we note the changing position of the railroads, and it may be desirable to have that stated in an authoritative way, as the subject is viewed by the railroads themselves. The next speaker, who will discuss that subject, began his career in the railroad industry in humble capacity in 1898, following his graduation from Yale University. He came up through the various positions of the operating end of the railroad industry. Since 1932 he has been the President of the New York Central Railroad Company. We are privileged to have as our next speaker, Mr. Frederick E. Williamson, the President of the New York Central Railroad, who will present "The Changing Position of the Railroads". Mr. Williamson! (Applause)

THE CHANGING POSITION OF THE RAILROADS

FREDERICK E. WILLIAMSON
President, New York Central Railroad Company

I

AT this time when change and uncertainty in the political and economic situation are so marked, and the future as measured by the old standards so uncertain, it seems particularly fitting that this organization should give some thought to the changing position of the railroads, which is the subject assigned to me for comment.

Experience has shown that the only permanent thing about business is change. Things do not stay put. The problems met today rise in a new form tomorrow. These changes that occur in any industry, including the railroads, are of two kinds and may be called short-time changes and long-time changes.

What I have called short-time changes include the ups and downs of business that last only for a relatively brief period. They appear in the form of the temporary changes in traffic and are due to such things as short crops, more or less extensive disasters of drought, of flood or storm—that is, acts of God, as they are called. There are also periods of boom and periods of depression in business.

The years 1929 to 1936, so tumultuously changeful for all of us, show the full range of effect upon the railroads. In the former year, the Class I railroads of this country originated about 115,300,000 tons of freight; in 1935 they originated 76,300,000 tons. Their ton-miles in the former year amounted to about 447.3 billions; in 1935 they were 282 billions. Gross revenues in 1929 were 6.3 billions and 3.4 billions in 1935. Net railway operating income in 1929 was $1,375,000,000 and reached a low of $447,000,000 in 1932. Return on investment in 1929 was 4.84 per cent and the low was 1.25 per cent in 1932.

Behind these dull figures lies the dark and dramatic story of the business depression, unemployment, drought and flood. The railroads faithfully reflect them all in their accounts.

Through every change, the railroads have carried on. "Neither snow, nor rain, nor heat, nor gloom of night stays these carriers from the swift completion of their appointed tasks."

Out of it all, two things stand forth in bold relief. One of them is that with the heavy fixed investment required by the nature of the railroad business, declining traffic and consequent declining revenues strike with cumulative effect upon their net income. The other is that the railroads have a surprising toughness of fiber to withstand great shocks and an inherent resiliency that enables them to spring back quickly to normal position. With an increase in the first eight months of this year of 16.7 per cent in gross revenues, as compared with 1935, net revenues increased by 30 per cent. *Today, after all the stress and strain of these recent years, the railroads are giving better service at lower costs than ever before. That is a considerable achievement.*

I have spoken also of long-time changes. Included here are those that have resulted from (a) improvements in the arts, such as inventions, labor-saving devices, new types of facilities; (b) improved methods of operation as illustrated by increased length of trains, longer runs, automatic signal devices, increased speed, fuel economy, use of lighter equipment; (c) changes in public demand for transportation service; and (d) rise of new competitors. These are the changes not fully realized in a day or a year. They come to fruition over longer periods.

Between 1923 and 1935 gross capital expenditures of Class I railways amounted to about 7¾ billion dollars. These expenditures have resulted in better plant and better equipment. There are new methods at less cost for maintaining the roadway, in the form of machines for tamping ballast, for spraying the roadway to reduce dust and to kill weeds. There is a marvelous new machine for detecting imperfections in the rails. There has been greater use of improved material in the construction of equipment. There has been a development of air-conditioning of passenger cars and of stream-lined equipment to reduce air resistance. It is remarkable that out of the depth of depression have come new types of railroad facilities.

For example, within the last few years several railroad systems have acquired a number of Diesel electric locomotives

which it may well be will become the future type of railroad motive power, giving the advantages of electrification without the large fixed investment for generating plants and distribution systems. Refrigeration is being developed by mechanical means for use in refrigerator cars, and the future may see the discontinuance of delays and expense caused by the use of ice. Special loading devices installed in cars for automobiles and other products have been developed which bring about a saving in expense to shipper and receiver and provide for minimum time required for loading and unloading. Yards have been so arranged as to facilitate the movement of freight trains through many intermediate yards without change in consist, and this has been one of the means which has had more to do with making possible the faster schedules and greater regularity of service than any other single change in method.

There have been improved methods of operation. The length of freight trains has been increased during recent years. Locomotives now operate over longer runs than formerly. A really remarkable system of automatic signal devices has been constructed which makes possible faster and safer operation. A part of the capital expenditures referred to has gone into double tracks, switching tracks, lowering of grades and flattening of curves, so that operation can be carried on at less cost. There has been increased speed for passenger trains. There has been a dramatic element in these increased speeds which has brought them to public attention. A less dramatic but a not less important increase is found in freight train speed, which, between terminals, has increased nearly 50 per cent. Fuel consumption by locomotives has been reduced by 25 per cent for each unit of work done.

I have mentioned the subject of automatic signaling. This is really an art in itself. The significance of it may be illustrated by one instance from the New York Central System. Upon a stretch of track 143 miles in length, with which I am familiar, between two large cities, where passenger and freight traffic density requires multiple tracks throughout, the former one hundred odd manually operated signal stations have been reduced to twenty-five, with permanent savings in operating and maintenance expenditures for the future.

During the one hundred years or more of railroad development there have been accumulated knowledge and experience that have been capitalized from time to time in all sorts of improved methods of operation. Today the rail carriers are engaged in extensive research studies to find further improvements and further to modernize the railroad plant. These are all long-time changes, for it is to be remembered that the units of railroad equipment are relatively expensive and their service life extends over many years. The problem of management is to know when it is economical to place a unit of equipment on the scrap heap that still has a number of service years in it.

It is interesting to note that the New York Central System has retired during the five-year period beginning with the year 1932, 1,600 locomotives, 65,459 freight cars and 672 passenger cars, where a careful study indicated that through either obsolesence or wear it was not economical to continue the equipment in service.

I have referred to long-range changes within the railroad plant itself. There have been changes from the outside — changes in public demand for transportation service. For example, there has been a demand for increased speed for both passengers and freight and the railroads have endeavored to meet this demand. Producers, wholesalers and retailers have quite generally adopted the principle of hand-to-mouth buying, resulting in the purchasing of smaller units by the distributive agencies to reduce their inventories and to increase the turnover of their goods. The rail carriers have sought to meet these demands. There has also been a tendency to relocate industry nearer to the source of supply of raw materials or consumption. The result has been a reduced demand for transportation. The railroads have had to face this change also. There has been the use of electric power instead of steam power or natural gas, with a consequent reduction in demand for coal. This change has had a serious effect upon the tonnage of rail carriers.

II

The most outstanding change in recent years has been the rise of new competitors. Whereas a few years ago transportation was almost universally considered as railroad transportation, today the railroads are only one of five great

transportation agencies. Highways, waterways, pipe lines and airways have developed. There is no longer a so-called monopoly in railroad transportation. The railroads must share the traffic of this country with other agencies. The effect of such a change in the position of the railroads is to create an entire series of new problems.

It should be noted that all of these new agencies of transportation have developed independently and almost wholly without consideration for the capacity and service of existing transportation facilities. We have largely kept each agency in an air-tight compartment of its own.

These five great agencies have been dealt with differently. From the period when railroads were the dominating and almost sole agency of transportation, there have come the restrictions and the burdens of regulation which remain in this period of changed conditions. Transportation by pipe line has very largely been left free to develop in response to a demand for specialized service on a basis of private management. Highways, waterways and airways have each been unrestricted, and largely unregulated, and each has had a government agency for its promotion.

The development of waterways has not been on a business basis but on the basis of politics. Congressmen have sought waterway projects for their districts, not for economic but for political purposes. The government agency through which waterways are promoted is the Corps of Engineers, United States Army. In seeking economic justification for waterway projects, they have felt, and have so stated publicly on numerous occasions, that their consideration should be focused solely upon an individual project and in disregard of all other agencies of transport. If they find that sufficient traffic can be diverted from existing agencies to a waterway, improved out of tax funds, to justify the project, it is open for recommendation.

In the U. S. Department of Agriculture there was established in 1893 the Office of Public Roads Inquiries. From the beginning it was a promotional agency and as originally created was intended to promote the improvement of the common road from the farm to the nearby market. It has continued since that time, and in recent years, as the Bureau of Public Roads, has grown in power and authority and has been the agency through which billions of dollars have been ex-

pended for the improvement of highways that duplicate and parallel main railroad trunk lines. The original intent of improving the farm-to-market road has been wholly obscured by the activities concentrated upon the main state highways. This movement has gone on without consideration for the capacity and the service of existing transportation facilities.

The promoting agencies for airways have been the Bureau of Aeronautics in the Department of Commerce, the Weather Bureau in the same Department and the Post Office Department with its mail subsidy. Commercial aviation has been promoted by these government agencies primarily for the purpose of having available, in time of war, plants for manufacturing airplanes of latest design, a large number of airplanes for active service and a trained personnel of pilots. Clearly, the promotion of a transport agency of this kind has not taken into consideration the effect upon existing transportation facilities.

One clearly-defined result of these uncoördinated activities is obvious today. As Professor Cunningham has pointed out, there is a surplus of transportation facilities. The greatest surplus is found along the lines of greatest traffic. Every agency has sought to share as much as possible in the traffic moving by other agencies. When a railroad has sought to abandon a branch line, communities have objected on the ground that loss of the rail line would leave them without adequate transportation facilities. In many cases, however, attempts to abandon such lines have resulted from the fact that a large amount of traffic has been diverted to a new agency which has been developed without any consideration of the effect upon a particular branch rail line.

Under the law railroads cannot abandon or extend their facilities and service without a certificate of public convenience and necessity from the Interstate Commerce Commission. Now it seems a sensible position to take that no great fixed investment in a roadway of a transportation agency should be made unless it is to be utilized. Therefore, it would follow that before large sums of public funds are invested in improved waterways or in the improvement of highways for commercial purposes, or in the extension of landing fields and lighted airways, consideration should be given to the effects of such agencies upon essential, existing transportation facilities. There is no requirement today for such a consideration.

III

This long-range change in the position of the railroads from the sole important transportation agency in the country to one among five has brought to the front another problem. The public apparently desires that there shall be some sort of smoothly-working relationship between all of these transport facilities, wherein each agency will get its just deserts, each will develop just so far as it should develop, the old will give place to the superior new, and there will be a continuous improvement in service at a continuously lower cost. All of these various ideas are bound together and expressed in one word " coördination ".

This vague and luminous phrase needs some consideration. It seems apparent that coördination is different from competition. Competition is necessarily a duplication of facilities. Coördination ought to be a working together for a common end. When railroads were attached end to end to make our great systems of today, they were coördinated. There was a common purpose so that operating practices, time schedules, rate adjustments, financial support and solicitation of business were all directed to the common end of making the system as a whole prosperous.

The public, however, seems to want competition retained. They fear monopoly. Competition may lead to an overdevelopment of facilities. Coördination, if carried on without restraint, may lead to monopoly. So we may say that the public wants competition, wants coördination, does not want monopoly. This is a part of the changing position of the railroads.

Even under enforced competition with one another, the railroads have made some progress in coördination. Unproductive branch lines have been eliminated. More than 20,000 local stations have been closed due to the fact that the motor vehicle has a wider range of operation than the older agency, the horse-drawn wagon and truck. A package of freight may be loaded at any obscure station in the country for delivery to any other obscure station on the continent and, by exchange of traffic and cars, it will be carried to its destination. Twenty-five thousand miles of line are used jointly by more than one railroad. There are also thousands of joint freight and pas-

senger terminals, shops and bridges and the like. There are those who are impatient about the rate of progress which the railroads are making in this coöperative effort but, generally, they are persons who do not have the responsibility of protecting the rights of the owners of individual properties.

There remains much to be done in this whole field of coordination. The problem is one which has arisen because of the changing position of the railroads but it must be clear that the changing position of the railroads calls for a change in public attitude to correspond to it.

The first requirement in a new public attitude is that there should be a comprehensive consideration of all transportation agencies. Each, it is said, has its own inherent advantages and each has its field in which it may operate most acceptably. These matters cannot be settled by focusing attention on a single agency. There must some time come an effort to evaluate the relative usefulness of agencies to meet the full public demand for transportation service.

A second requirement in this new public attitude is for consistent treatment of all agencies, at least so far as the government is concerned. There is today no consistency in treatment of these competing agencies. The future, however, is more hopeful. In 1935 Congress passed the Motor Carrier Act regulating highway operations. The reports of the Congressional Committee recommending this bill stated that it was a part of a general comprehensive program of regulation which would include all agencies of transportation and place them on an equality in this respect. This is a change in public attitude consistent with the change in the position of the railroads.

I have said that, as I see it, the object sought in the transportation field is to secure a smoothly-working relationship between all of these agencies. Is it not clear, however, that such an object can be attained only if there is coördination in facilities, in service and in regulation with respect to all of them? I have indicated the duplication of facilities. Service follows these facilities. Therefore, coördination in transportation can be had only on condition that we coördinate our attitude, our treatment and our development of these agencies. This coördination requires the application of the same economic

principles to each. It means that each shall stand upon its own economic basis, paying all costs, meeting all requirements and facing all tests of usefulness.

A subject much discussed in the recent past is that of passenger service and fares. Since June 1, when passenger fares were reduced, the discussions have become somewhat intensified, and some doubtful conclusions have found their way into print. It is true that there has been an increase in the volume of passenger travel on the railroads over the corresponding months of last year, and it is true also that, generally speaking, passenger revenues have been somewhat in excess of those revenues for the corresponding months of last year. I have no disposition to minimize the contribution of the rate reduction to this increase in passenger business. In all fairness, however, we should not overlook other contributing causes. In recent years the railroads have spent much, and done much, to make passenger travel on the rails more comfortable and more attractive. Train schedules have been speeded up; newer types of equipment have been put in operation; and air-conditioning has been provided, not only in large numbers of Pullman cars, but, as well, in coaches on many of the through trains. These improvements, although retarded in recent years by economic conditions, represent millions of dollars in the way of capital expenditures. Hand in hand with this improvement in the service has come a general pick-up in the business of the country and passenger travel has reacted, now as in the past, to the fluctuations in the country's prosperity. Lest we lose our sense of proportion, it is well to bear in mind the extent of this so-called pick-up in passenger revenue. On the New York Central, our passenger revenues for the month of September 1936 are still 51 per cent below those for the month of September 1929, although our freight revenues for September 1936 are but 36 per cent below those for September 1929. Our current passenger revenue is running at about the level of the spring of 1932, and we all know that we then thought business was pretty poor. The point is that railroad passenger business is not primarily, certainly not exclusively, determined by the rate of fare. True it is that the price is an element, but so also are the character of the equipment, the quality and comfort of the service, the speed

of the trains, and the prosperity of the country. The railroads need a prosperous country, but also, and perhaps more so, a prosperous country needs the railroads.

IV

There is another element in the changing position of the railroads which should not be overlooked in any candid survey of the situation. I refer to so-called railroad labor questions. As is well known, the railroad brotherhoods are among the most efficient, active and articulate of any in the country. These organizations have in many ways, and over a wide front, served their membership faithfully and well. They have grown from small beginnings and against much in the way of odds, until now they have become powerful, politically as well as economically; and with this great power there has also come, in many respects, an insistence upon demands that are impracticable in operation and impossible in cost. Nowhere are the railroads subjected to more discriminatory regulation than in their labor relations. A multitude of regulatory measures are applied to them that are not applied to their competitors. An example of this is to be found in the pension legislation. It is not necessary that we consider the merits or demerits of old-age security legislation. It would seem fundamentally sound that whatever is set up in the way of old-age security for the great bulk of American wage earners should be applied also to the railroad industry; yet, we find on the statute books railroad pension legislation more burdensome in cost and more generous in provision for railroad workers than is the case under the general social security statute. I have never heard any argument in justification of this exceptional governmental consideration for railroad men. There is, of course, no social or economic reason for a preferential old-age scheme for railroad workers superior to that for other American citizens who also work and who also grow old. In the utmost candor, we must all accept, as the undoubted explanation, the greater efficiency and articulation of the railroad brotherhoods. Then, also, there are many proposals grounded not on economic propriety, but rather predicated on the desire to create more jobs. Among these are the train limit bills, bills requiring additional employees on trains and bills providing for the six-hour day on the railroads.

It seems to me no more than fair that we should ask, in the case of all so-called labor legislation not reasonably required in the interest of safety or efficiency, that there should be only such as is applicable generally to all wage earners, to the end that there may be no preferred class enjoying, at the hands of the law, bounties, privileges or advantages that are not equally applicable to all others similarly situated.

I have developed at some length the theme of the changing position of the railroads. Before closing, however, I want to make mention, not of the variables but of the constant element in the transportation situation. Through all the vicissitudes which the railroads have been forced to meet, the ups and downs of business, the disasters of drought and storm and flood, the imposition of restrictive regulatory measures, the competition of new agencies subsidized by government, railroad service has been demonstrated to be essential for the economic welfare of the country.

Let us fully recognize the value and usefulness of other forms of transportation. No one of these other forms of transportation, nor all of them together, can meet the demands of the commerce of this great continent. With the flexibility of the individually loaded car and the economy of mass transportation in trains, there is nothing to match the railroads that is yet in sight. It is our firm and constant belief, therefore, that the railroads will continue to be the essential transportation facility to meet the public demand throughout the land.

We in the railroad field hold the unanimous, steadfast belief that our industry is a solid, virile and an absolutely necessary one. We believe that ways will be found in the future, as in the past, to meet all changing conditions, economic or otherwise. We shall constantly continue our efforts to reduce expenses and increase our earnings. It may be that the railroads will never again hold the dominating position in the field of transportation that they once had. Nevertheless, under reasonable and average general economic and business conditions, well-managed and well-located railroad systems will continue to render safe, sure, satisfactory service to the public. They will make some return on the money invested by those who have reposed their trust in them. They will continue to be the essential backbone of the country's commerce through the coming years.

Remarks by the Chairman

Hon. William L. Ransom: I am sure you will agree with me that the members of the Academy are indebted to Mr. Williamson for this keen analysis and forward-looking presentation of the position of the railroads in the national economy.

We turn now to the labor aspects of the railroad picture. It has been increasingly recognized that in a modern economy a first charge upon the revenues of industry must be the maintenance, in reasonable comfort and safety and health, of those who by hand or brain produce the service or the commodity which is supplied. The practical aspects of this just principle give rise to many grievous problems. Mr. Williamson has indicated the employer point of view with respect to some of them. The speaker whom we shall hear from concerning "Labor Relations in the Railroad Industry" is a New Yorker who was born in this city fewer than forty years ago. He achieved success at the bar but turned aside to the teaching of law. He served with distinction in professional capacities and as Chairman of the National Labor Relations Board, and returned by his own choice to his profession and work as Dean of the great Law School of the University of Wisconsin at Madison. He is a speaker who has, I believe, the confidence of American liberals and of American labor, and we are honored in the presence here of Dean Lloyd K. Garrison, of the Law School of the University of Wisconsin, who will speak on "Labor Relations in the Railroad Industry". Dean Garrison! (Applause)

LABOR RELATIONS IN THE RAILROAD INDUSTRY

LLOYD K. GARRISON
Dean of the University of Wisconsin Law School

LABOR relations in the railroad industry are determined by a complex of many factors: the experience of employees and managements who have lived together and dealt together for over sixty years; the craft structure and seniority principles of the twenty-one standard unions; the customs and practices of the industry; the character, intelligence and length of service of the employees; the calculations and policies of management and the hopes, fears and memories of the men; the pressure of new competition; the demands of shippers and security holders; and finally the nature of the laws and institutions set up to keep the peace and to promote justice. Of all these factors except the last, time will permit me to say little or nothing. Therefore my observations will have a certain distortion of emphasis, for which I hope you will make allowances. I shall speak primarily of laws and institutions simply because my experience has been in those fields.

The law of labor relations in the railroad industry is the most comprehensive and the oldest in the country. In its present form it derives from the 1934 amendments to the Railway Labor Act of 1926. These amendments are rooted in history. To understand them one must know their background. I shall try to trace that background, but I can do so only in the most summary fashion.

Prior to the World War only the train and engine service employees were strongly organized. Their four brotherhoods were generally recognized by the carriers, and contracts with these brotherhoods were in effect on most of the roads. The other crafts were for the most part weakly organized and, for the most part, not recognized. During the war period of governmental control and of active collaboration between the government and the unions, these other crafts built up their memberships to a point approaching that of the four

brotherhoods, and entered into agreements with the government covering wages and working conditions. These agreements were abrogated after the return of the roads to private management, and, following the outlaw switchmen's strikes of 1920 and the disastrous shopmen's strike of 1922—the only nation-wide strike in our railroad history—the unions other than the four brotherhoods lost most of the ground they had won during the war.

The policy of nonrecognition was, rather widely, returned to; many of the carriers set up "system associations" or company unions designed to wean and keep the men from the standard unions; and some of the roads also exacted so-called "yellow-dog" contracts from their men, under which the latter contracted, as a condition of their employment, to refrain from joining labor organizations. These tactics were continued by certain carriers down to 1934, despite the improved relations between management and labor which set in after the shopmen's strike and which were typified by the co-operative plan worked out on the Baltimore & Ohio, and by the liberal labor policies of some of the other roads.

The amendments of 1934 defined more exactly than before the obligation of management to refrain from interfering with labor's choice of representatives. The amended law specified that these representatives included labor unions—a point which had been previously disputed by certain carriers; prohibited carriers from lending financial support to company unions, or inducing employees to join or remain in such unions; outlawed "yellow-dog" contracts; and attached criminal penalties to the violation of these provisions. The law also gave to the new National Mediation Board, which it set up, not only the traditional functions of mediation—functions which its predecessors had exercised since 1898—but also the duty of ascertaining the choice of representatives by employees in cases where such choice was disputed. The choice was to be ascertained by taking a secret ballot or by other appropriate methods. Previously many carriers had refused to deal with unions—excepting the four brotherhoods—for want of evidence satisfactory to the carriers that these unions actually represented the men. In some cases also the carriers were bedeviled by rival organizations, each claiming jurisdiction over a certain

class of employees and each claiming the right to deal with management. Now by the device of a secret election under government auspices these disputes could be cleared up.

In the first year of its existence (1934-35) the new Mediation Board (a three-man impartial body) determined the choice of representatives in 96 cases. Eighteen of these were jurisdictional quarrels; 45 involved a choice between a company union and a standard union, the latter winning in 86 per cent of the cases. Unless all signs fail, the company unions, of which there are still a considerable number, are on the way out. Experience has shown, here and elswhere, that in most cases the employees will select a bona fide labor union in preference to a company union whenever they have a free choice. The law now assures them a free choice—as it should, for satisfactory relationships cannot be built upon any other basis.

The Mediation Board has been active in other disputes, growing out of desired changes in wages or working conditions. During the year 1934-35 it mediated in 70 cases, 24 of which terminated in written agreements of settlement. Including the representation cases just described, the Board in its first year acted in 166 disputes involving over 100,000 employees on 117 different railroads. All of these disputes terminated without open conflict. The figures for the past year, not yet published, will probably show an even greater activity. The Board is performing a useful function with great ability and success. When it fails in mediation, as of course it often does, the law provides a method of voluntary arbitration. If the parties cannot be induced to arbitrate, the matter is dropped unless a serious interruption of commerce is threatened, in which event the President may appoint an emergency board to investigate and report. During its investigation and for thirty days after its report the *status quo* must be maintained. After that nature may take its course. These provisions for mediation, arbitration and investigation, particularly the first two, are based upon a long experience and a long legislative history. They are sound and have proved their worth.

They relate, however, only to conflicts which are not justiciable in nature—demands for an increase or reduction of wages, changes in rules and so on. These conflicts generally

end in compromise. But there are other conflicts which are justiciable in nature—disputes about the meaning of particular clauses in written agreements. These disputes call for judicial interpretation and decisions, not conciliation and compromise. Now experience has shown that you cannot successfully combine judicial and mediatory functions in one body. We tried it with the United States Railroad Labor Board, set up after the war, and the result was a memorable failure. Congress, therefore, in creating the new Mediation Board, gave it no judicial functions. These were assigned to another new agency, the National Railroad Adjustment Board.

The Adjustment Board interprets and applies written contracts between carriers and unions, handing down decisions which are reviewable and enforcible in the federal courts. It does nothing else. It sits in Chicago and consists of 36 members, 18 selected by the standard unions and 18 by the carriers. The board is divided into four bipartisan divisions, constituting in substance four separate boards. The first division adjudicates disputes involving train, engine and yard service employees. This is the busiest division of all, and its cases generally involve the most money and have the most far-reaching effects. The third division is the next busiest: it deals with a number of crafts of which the clerks, telegraphers, station employees and signalmen have had the most cases. Both of these divisions are constantly in session throughout the year. The other divisions, particularly the fourth, have relatively little to do and meet only from time to time.

The law provides that when a division deadlocks, it shall call in a referee to sit with it and make the award. If it cannot agree on a referee (and it almost never can) the National Mediation Board in Washington appoints the referee. Thus every case ultimately gets decided.

One may ask, is it necessary to maintain such elaborate machinery for the interpretation of agreements? The answer is yes, and, as I shall attempt to show, the machinery is not quite elaborate enough. There are in existence on the 859 carriers covered by the Railway Labor Act over 3,000 separate agreements with labor organizations, of which over 2,300 are on the Class I railroads. Each of these agreements consists of many clauses and thousands of words, defining, in language

not always clear, jobs, duties, hours, overtime, seniority rights, discipline procedure, leaves, vacations, wage rates and so forth. Disputes are constantly arising: what does this particular clause mean as applied to this particular set of facts? Or, if the meaning is clear, what are the facts which give rise to this particular claim? Sometimes both the meaning and the facts are in dispute. There may be precedents but they too are often in dispute.

Some one has got to decide these disputes, after they have been handled all the way up to the top of the carrier-union hierarchies and no agreement has been reached. They cannot be left to fester. There are too many of them and the stakes are too great. Law courts are not the answer. There must be tribunals specially adapted to the requirements of the industry, and able to work swiftly, simply and expertly. I think everyone will agree to that. But there is disagreement as to the kind of tribunal which the situation calls for.

The unions, after the junking of the United States Railroad Labor Board in 1926, sought the establishment of national tribunals patterned upon the boards set up during the war period. The carriers refused, preferring local boards, if any. The law left the matter to mutual agreement. As a result no national boards were set up. In their stead were created some three hundred regional and single-system boards—chiefly the latter. By no means all the carriers joined in setting up even these local boards. The amendments of 1934 gave to the employees what they desired; and nearly all the local boards, except the Pennsylvania's, thereupon faded out of existence.

The details of this controversy need not here be discussed, since the matter has become academic. I can only express my own personal view that since many of the rules in the agreements are standard upon some or all of the carriers, it seems logical that there should be a national body to interpret them. Otherwise a particular craft on one road will, as has happened in the past, get better treatment under a particular rule than the same craft under the same rule on another road; and this can only lead to friction and confusion.

There are two changes which I think should be made in the present set-up. In the first place, the law puts no time limit on claims presented to the Adjustment Board. A number of

awards have been made requiring restoration of wages or penalty payments from as far back as 1930 or 1931, when the claims arose, to the date of the awards. In at least some of these cases the finding that a rule was violated was based upon a prior decision of the Board interpreting the same rule upon the lines of another carrier, although the local practices in the one case may not have been the same as in the other. I think the Board is right in interpreting a standard rule consistently, and in disregarding local practices except when they are so clear as to amount to an agreed-upon interpretation, for otherwise there will be no certainty and neither carriers nor employees will know where they stand when decisions relating to the same rules upon other roads are handed down. But this policy will result in much hardship unless there is some time limit on claims based upon such decisions.

In still other cases the particular application of a rule has never been passed on; it comes up to the Board as an original proposition; there are no precedents, the rule is obscure, and the question might almost be decided either way. In such cases it seems unfair to penalize the carrier for having done innocently some years ago what the Board now finds for the first time to be a violation of the rule. On the other hand, there have unquestionably been cases where the carrier, at a time when no tribunal was available for the protection of employees, deliberately flouted a clear rule in order to save money at the expense of the men. I should think the law might feasibily lay down a reasonable time limit, with authority in the Board to waive it upon a persuasive showing that the violation was deliberate.

The second change I would suggest is that in place of the present referee system three impartial full-time men, appointed by the President and confirmed by the Senate, should be attached to the Board to adjudicate deadlocked cases. I have served as a referee with both the First and the Third Divisions, sitting upon nearly a hundred cases, and what I suggest grows out of that experience. The views here expressed are my own; I speak for no other member of the Board. As matters now stand, the referee in deadlocked cases is the sole judge.

Some of these cases are trivial and the decisions have no significance; others, though important, are so clear that any

reasonably intelligent outsider could decide them with confidence. But there are still others which are so difficult, so closely balanced, so technical and so far-reaching that—speaking again for myself alone—I am satisfied that the responsibility is too great to be cast upon one lay referee who comes to the board for a temporary assignment, with no background, no feel for the intangibles, and no fellow judges to consult with.

I know that the employees are skeptical of full-time neutrals, for if the appointments are unwisely made there is no escape; and the unions have bitter memories of the Railroad Labor Board of 1920-26, whose public chairman was regarded as actively hostile. But both sides must take the same chances, and I am persuaded that in the long run, given moderately good initial appointments, both sides will be better off with three full-time neutrals on the Board than with a succession of single, temporary referees.

The selection of referees who are both qualified and available is apt to become increasingly difficult with the mounting number of deadlocked cases. The use of referees, moreover, is very time-consuming, for they are not called in to sit with a Division until *after* the cases have been argued by the parties before the Division. When the referee appears, though he does not hear the parties, the Division must waste precious days rearguing the cases for his benefit. The Third Division is barely abreast of its work and the First Division is far behind. In the last fiscal year the First Division received 1,294 new cases, heard 891 and decided 862 (of which 303 were decided by referees). The net carry-over of undecided cases (making allowance for some which were withdrawn) was 356; and if we add the cases carried over from the previous year we get a total of 1,461 cases docketed and undecided.[1] These figures demonstrate the pressure under which the Division is working and the need of some relief. Full-time neutrals sitting with the Board in all cases would not need to hear rearguments in those which were deadlocked, and would thus save the Board an enormous amount of wasted time.

One word more and I am done.

The railroads are facing an unprecedented competition. To survive and prosper employees and management must coöperate

[1] About 1200 cases were inherited from regional boards in existence when the Adjustment Board was set up.

as never before. For the sake of their own future, which depends on the prosperity of the industry, there is much that the employees should give up in the way of burdensome rules, uneconomic make-work legislative programs, and opposition to needed coördination of facilities and terminals. But these things are not likely to be given up for the asking. They are symptoms of a deeper hunger—the hunger for security.

With the post-war development of larger locomotives, longer runs, the closing of many terminals, and the growing use of labor-saving devices, the employees watched their numbers dwindle from 1923 to 1929 by nearly 200,000, though the gross-ton mileage of freight and passenger car movement increased in that same period by 31 per cent. In the next four years the employees' numbers were further cut by nearly 700,000, of whom not many have been reëmployed. The seniority principle, which has given to the carriers the most experienced, conservative and faithful labor force of any major industry, has operated also to give it an undue proportion of elderly and aging men.

There is fear of old age, fear of unemployment—fears based upon the solid realities of what has happened in recent times. These fears explain in part the obstinate clinging to outworn rules, the drive for make-work programs. I do not condone these policies. They are bad for the industry, and in the long run bad for the men. But I doubt if you will end them by saying they are bad, or by talking about the long-run interests of men, when round the corner are immediate perils. I do not know the answer, but I cannot help but feel that there is enough statesmanship on both sides to yield what should be yielded and to grant what should be granted. The agreement of last May between the standard unions and the principal carriers, providing allowances for men displaced by consolidations, was a most hopeful sign.

If in seeking the revision of rules, allowances might similarly be proposed for men losing work as a result of the revision, much could surely be accomplished; and if in the same spirit the other problems of security could be approached, the fears which help to perpetuate short-sighted legislative policies might soon be dissipated. Let us hope for the sake of all that by some such process of give and take, of mutual understanding and forbearance, the industry may move forward.

Remarks by the Chairman

Hon. William L. Ransom: Dean Garrison, we are indebted to you and thank you for coming here to give us this sympathetic presentation of the labor relations problems in the railroad industry.

Chief among the patrons of the railroads are manufacturers and those engaged in trade and commerce and other American industries. The next speaker will discuss the interest of industries in the railroads. Mr. Virgil Jordan has had a useful career as an economist and in the field of accumulating statistical data and the conclusions in behalf of American industry. He has been for some years the President of the National Industrial Conference Board. I present Mr. Virgil Jordan, who will speak concerning "Industry's Interest in the Railroads". Mr. Jordan! (Applause)

INDUSTRY'S INTEREST IN THE RAILROADS

VIRGIL JORDAN
President, National Industrial Conference Board

MY part in your discussion this morning is short and simple, like the familiar annals of the poor, among whom the railroads certainly must be included for most of the period since the war. I shall first describe what I believe to be the substance of the interest of other industries in the railroads, and then offer a few observations as to how those interests are likely to be influenced by developments affecting the railroads in recent years and in the future. In what I shall say, of course, I am speaking only as an investigator of facts underlying the prosperity of all those engaged in industry and in the railroads, and not as a proponent of the special interest of any group in either field. We have come to recognize that interdependence is one of the primary facts of prosperity in our present social organization, and the railroads, with all who are involved in their work, are an inseparable part of the whole organization for producing goods and services upon which the prosperity of all rests.

The people of this country who depend upon American industries for their support and security, which I think includes everybody, have three principal points of interest in the situation of the railroads. First, they are concerned to secure efficient, dependable and adequate transportation service at the lowest total real cost. Second, pay rolls and employment in a large number of important industries are vitally affected by the ability of the railroads to purchase equipment and supplies for the maintenance and improvement of their service. Third, workers in all industries and businesses are concerned with the consequences of governmental policies toward railroads with respect to labor, operation, taxation, finance and competition, which affect their earnings and costs and which will ultimately determine the continuance of the railroads and, consequently, of other industries, as private enterprises.

With respect to these three points, the prospects over the next few years are not very hopeful for workers in other industries. During the past year there has been some improvement in the position of the railroads which has enabled them to make some progress in improving equipment and service and lowering costs. This has been helpful to workers in some of the heavy industries. Further progress in this direction is certainly possible, and far-reaching programs are now in preparation.

Unfortunately, underlying tendencies in economic and political conditions will probably prevent or greatly retard the realization of these programs. These tendencies, which have been in operation for many years, must either materially increase railroad transportation costs and depress the purchasing power and employment of workers in all other industries, or they must cripple the financial position of the railroads during the next five or ten years.

As this process continues, and probably beginning by 1940, private investment in the railroads will gradually be dissipated or expropriated and replaced by public investment, and they will be absorbed in some form of government ownership or operation. This outcome will greatly increase the real cost of rail transportation and the general cost of living, putting a heavy burden upon workers in every industry, directly or indirectly, for inferior and unprogressive service.

The railroads remain, and must remain, of course, to use the very trite phrase, the backbone of our transportation system for the movement of heavy commodities over the enormous area of this country. Highway and water transportation facilities are not and never will be anything but accessories to the railroads. Measured in ton-miles, the railroads provide at least ninety per cent of the commercial freight transportation of the country, and in tonnage, they carry at least half of the products moved in the United States. Our railroad system must always, therefore, be depended upon to transport and distribute by far the largest part of the commodities produced and consumed in this country, and there is no doubt that they can provide this transportation service at lower real cost than any other facilities, if all costs, direct and indirect, are taken into account in the comparison.

This cost could and would be considerably lowered, and the service improved with new types of equipment now being developed, if conditions were encouraging to private initiative and the investment of new capital in railroads. Workers in every industry and occupation have a direct interest in these conditions, because the cost, efficiency and adequacy of railroad transportation are definite elements in the cost of living and, therefore, in the purchasing power of every person in the United States.

In the case of railroad transportation, as in that of taxation, it is impossible to measure the incidence of transportation costs in relation to the price of individual commodities and services, but the fact that they are not measurable in specific items, of course, does not mean they are not there. Whether or not the theory of general diffusion of taxes as an element in the cost of goods and services is valid, there is little question about the relation of transportation costs to the values and services of commodities produced. Part of that value is contributed by the transportation process which enters into production and distribution at all stages, and the relative importance of this service and of its cost can be broadly measured by the proportion which the net realized income of the transportation industries forms of the total realized national income.

For all transportation industries combined, this ratio has averaged close to ten per cent in the past ten years of prosperity and depression, with little fluctuation from year to year; that is to say, the total direct cost of all transportation service provided for sale in all forms, not including such part of the cost paid indirectly through taxes used for the support of highway, waterway and airway transportation, amounts to about ten cents of every dollar's worth of goods and services privately produced in this country. Of this the steam railroads account for slightly more than half, or fifty-one per cent, at present as compared with nearly sixty per cent in 1929. In other words, direct over all railroad transportation costs amount to about five cents of each dollar's worth of the goods and services produced in the United States. Measured in this inclusive way, railroad transportation costs may seem to be insignificant, but they are decisively important in the case of specific commodities and industries. In the aggregate, they

constitute a formidable total, and the changes that are taking place and are likely to occur in them are of great interest not only to the railroad industry, but to those in other industries as well.

For the steam railroads, the total net realized income from transportation service declined forty-four per cent between 1929 and 1935, a drop from $3,875,000,000 to $2,187,000,000. This is more than a reflection of the decline in volume of railroad traffic due to the depression. During this period, the realized income from water transportation fell thirty-one per cent, that from commercial motor transportation only ten per cent, and that from air and pipe line transportation only five per cent.

Here is a clear indication of the familiar diversion of the nation's expenditure for transportation service from the railroad to other facilities. This is further emphasized by the fact that while in 1919 about two cents of each dollar's worth of goods and services privately produced were accounted for by the direct cost of purchased motor transportation, this ratio had risen to nearly three cents in 1935. This increase was about matched year by year during this period by a corresponding drop in the ratio of steam railroad transportation costs, the other forms of transportation showing no substantial change in their proportion of the total.

Summarizing these trends, it may be said that while in 1935 the country was still paying for purchased transportation service in all forms about ten cents of each dollar's worth of goods and services produced, as it did in 1929, it was paying only five cents for railroad transportation in 1935, as against six cents in 1929, and the remainder went to other forms of transportation. If public expenditures on waterway, airway and highway facilities could be included in the comparison—which, as Professor Cunningham has said, is impossible at present—the change certainly would be more striking still.

These changes have meant a large loss in wages and salaries to workers in railroad transportation, which accounts for about sixty-two per cent of the total labor income from all transportation service. Salaries and wages in steam railroad transportation declined by more than $1,400,000,000, or nearly fifty per cent during this period, while all other forms of trans-

portation showed a drop of only about one third. The effect of these changes on the situation of the railroads, however, has a much greater significance than merely in its relation to their own employees. Workers in a large group of industries producing railroad equipment and materials have a special and direct interest in the financial position of the railroads, as it affects the railroads' ability to make capital expenditures for maintenance and improvements and to raise new capital for this purpose. These industries play an important part in the general employment situation and in the purchasing power of workers generally.

Unemployment and reduced purchasing power of labor have been concentrated chiefly in these heavier industries during the depression, and they have been affected over a longer period by the financial difficulties of the railroads.

The extent and duration of this influence are indicated by the fact that the capital expenditures of Class I railroads for equipment, roadway and structures were somewhat more than a billion dollars in 1923, and less than two hundred million in 1935. This decline has meant an enormous loss of employment and purchasing power to workers in all of the industries producing railroad equipment and materials. It probably accounts directly or indirectly for the unemployment of a million men each year since 1932. When the losses in employment on the railroads themselves, which Professor Garrison has referred to, are taken into account, it is hardly an exaggeration to say that their unfavorable situation during recent years has caused the disemployment of at least two million persons and a corresponding loss of purchasing power to the community.

Certainly no more important contribution could be made toward alleviation of unemployment and expansion of purchasing power in this country at the present time than the restoration of our railroad system to financial health and vigor. It is clear that without such restoration a large sector of our unemployment problem must remain unsolved, save by the painful process of time which may absorb displaced labor into other occupations.

The outcome in this respect now depends wholly, of course, upon the policy of government, which has had the railroads in some degree under its regulation for nearly fifty years and

now carries the full responsibility for them in its hands, as it does indeed for the survival and prosperity of those engaged in every other industry in this country today. Whatever may be the result of this assumption of responsibility for the support and security of those engaged in other fields, in the railroads, where it has been exercised most fully for half a century, the consequence has been the progressive paralysis of private initiative and enterprise and the enforced dissipation of railroad capital, which, taken together, have laid heavier burdens of transportation costs upon the community than it would have otherwise had to bear. Today these consequences are reflected in a lower general living standard than would otherwise be possible and in acute accentuation of the unemployment problem.

In the early stages of railroad development, regulation helped to remove many evils which burdened the public, some of which would doubtless have disappeared in the course of time anyway; but in later years government has served mainly as an instrument for advancing special and local group interests, at the expense of the national interest in efficient, adequate railroad transportation service. Government policies with respect to railroad labor, operation and finance have tended for a number of years, and particularly since the World War, to increase operating costs in the face of inflexible rates and to weaken the financial position of the railroads. Lack of coördinated policy in regulation of competitive government-subsidized forms of transportation has contributed to this result.

Although the fixed indebtedness of the railroads as a whole is not excessive by economic standards, and has not tended to increase for many years, their financial position has been so strained by these conditions that more than a quarter of the total mileage has been forced into receivership, and the ability of the railroads generally to raise new capital for cost-reducing improvements has been materially impaired.

Individual roads, which were so fortunately situated that they could do so, have been aggressively pushing forward cost-reducing and traffic-increasing improvements. In the railroads as a whole, there are in progress intensive research activity, experimentation and the development of long-term plans for improvement of motive power, for application of new ma-

terials and new principles of design to lighten the weight of rolling stock and increase the comfort of passenger trains, and for the use of new methods and materials in track laying and roadway construction. All this activity has already proceeded to the point where it can be said that a spectacular revolution in railroad transportation is around the corner. This would mean immeasurable benefits to the public in lower transportation costs and improved service. It would mean very specific and measurable benefits to workers in other industries through increased employment and purchasing power; but these benefits will not be realized so long as present tendencies in governmental policy toward the roads continue to paralyze their initiative and sap their financial capacity to carry their programs through.

Improved traffic has lessened and will further lessen the strain on many of the roads, but there is little prospect of fundamental change for the better in the underlying situation. Pensions and other projected policies affecting railroad labor will enormously increase costs, and security market conditions are certainly not favorable for raising the new capital necessary to carry through any large part of the cost reduction program in process of development.

The political atmosphere is certainly not favorable for any substantial increase of railroad rates under private management, even if this were in itself desirable, which is questionable. Government work programs are rapidly increasing the surplus of transportation facilities in competitive state-subsidized forms. These tendencies, combined with the general social and political philosophy of the period, are clearly converging toward a situation in which the ability of the railroads to render adequate low cost service will be impaired, and agitation for government ownership of the railroads will again become active. It is probable that definite steps in that direction will become a political issue—or rather an administrative program, since we no longer have political issues in this country—within the next four or five years.

I said in an address two years ago that we might expect to see the definite beginning of the absorption of the railroads in some form of government ownership by 1940, and the current situation makes this forecast seem conservative.

All our economic and social policy in this country is now definitely and deliberately designed to bring about the dissipation of private capital investment and its gradual replacement by state capital in every major field of production through the progressive crippling and paralysis of private initiative and enterprise. This program now has more than unanimous approval, one might say about 150 per cent approval, and may be expected to be carried through fairly rapidly in the course of the next eight or ten years. Since the railroads have been subjected to the processes involved for a very long period, they are now near the head of the list of candidates for collectivization. In fact, since the announcement last week that the banking system had been nationalized by making the member banks of the Federal Reserve System the instrumentalities of the federal government, the railroads may in fact be at the top of the list at the present time, unless the utilities slip in ahead of them.

Of course, very few of those interested will be aware of the event till after it has actually occurred. Before and after its culmination this process will, of course, entail higher railroad transportation costs and ultimately poorer service. This will mean not only higher living costs for workers generally, but will materially affect the position of private enterprise in other industries, since government ownership of the railroads will be an entering wedge and an invincible instrument for establishing state capitalism in other fields. As such an instrument it stands on a par with nationalization of the banking system and public ownership of utilities. With railroad transportation, power and credit in the hands of government, private enterprise cannot survive in any field in this country.

Even if the form of socialization ultimately chosen for the railroads should be that of a public corporation, as in the case of the London Transport System, with shares held by the public under government operation, the consequences I have just mentioned would still follow. Those engaged in railroad transportation as workers or investors, and the consumers of railroad transportation service, will be out of luck, and providentially they probably will never know what they have missed.

So if, among the workers and investors in other industries and the consumers of railroad service generally, there should remain any who have an interest in the potential benefits of private enterprise in this field, they would do well to give serious and sympathetic attention to the situation of the railroads and lend what aid they can toward the development of national policies designed to strengthen their capacity to serve the public effectively. The present position of rail transportation presents a very definite and direct challenge to all other industries, which demands that in their relations with the railroads they put aside considerations of immediate self-interest and bear in mind the common stake which all industries have in the preservation and development of efficient and adequate railroad transportation under private initiative and enterprise.

Remarks by the Chairman

HON. WILLIAM L. RANSOM: Mr. Jordan, in behalf of the Academy, I thank you.

We come now to another interesting, and often lively, part of our program, by way of discussion of the subject and of the addresses and papers to which we have listened. It is our practice to have the discussion opened, and then to throw the meeting open to a brief period of discussion from the floor.

Some of you may have noticed, by checking your final program today with the one which you first received, that we expected another speaker this morning in the person of Mr. William Green, the vigorous President of the American Federation of Labor. Mr. Green accepted our invitation, and his name was included in our first edition of the program. Unfortunately, the convening of an important meeting of the Executive Council of the Federation compelled him to withdraw his acceptance. When I talked to Mr. Green on Monday evening, he expressed very keen regret that he was unable to attend this meeting of the Academy.

Turning now to the discussion—the discussion will be opened by one who has had a wide experience in this field from the public point of view.

Professor Daniels was a Professor of Political Economy at Princeton, and later a member of the New Jersey Board of Public Utility Commissioners. President Wilson appointed him a member of the Interstate Commerce Commission of which he was later chairman, and in 1923 he resigned to become Professor of Transportation at Yale University. Now he is Professor Emeritus of Transportation at Yale. The discussion will be opened by Professor Daniels, under the ten-minute rule. (Applause)

DISCUSSION: RAILROADS AND THE NATIONAL ECONOMY

WINTHROP M. DANIELS
Professor Emeritus of Transportation, Yale University

I ASSUME that the unfortunate absence of Mr. Green absolves me from doing more than making one or two points with reference to the parts of the previous papers that have not concerned themselves with labor regulation. I shall, therefore, confine myself to one or two qualifications that I would make in the suggestions offered by Professor Cunningham and by Mr. Williamson. I think it is fair to say that both of these gentlemen agreed that we have at the present time a very considerable oversupply of transportation facilities. That view of course is often readily suggested by the very obvious and dramatic growth of certain types of transportation facilities. I think it was Will Rogers who said that it would not be long before we had a good hard-surfaced highway leading to every poorhouse in the country, and that is only one illustration of the excess of transportation facilities with respect to the corresponding demand.

It may well be that there is such a partial excess of provision as against requirement, but the first point which I should like to suggest is this, that you cannot estimate appropriately the so-called excess provision of transportation facilities by simply looking at the balance sheet investment in those facilities. After 1920, the railroads began their large program of additions and improvements, amounting to almost thirty-three per cent of their previous total investment, and yet it is questionable whether in usable, physical apparatus, there was any such enlargement of our rail transportation facilities.

The truth is that a great many of the facilities whose cost was written into the asset side of the balance sheet, where that cost very largely remains, represent equipment whose earning power has become zero and whose liquidating value is zero also. In

other words, the excess of transportation facilities is not going to be measured accurately by figures upon the asset side of the balance sheet, but by a very intensive physical inventory of the apparatus that exists as contrasted with the demands put upon that apparatus.

As a matter of fact, I think it is true that the operators of many individual transport lines, if asked whether they have an excess of immediately available facilities, will, if they are candid with you, disclose the fact that they are not anxious concerning their oversupply, but fearful lest certain needed facilities in the immediate future prove insufficient for the requirements.

One of the most experienced operating men whom I know said to me recently that, if industrial development proceeds at its present upward trend, he will be surprised if there is not a shortage of open-top and other equipment within six months' time. Now, that does not look as though in that very basic line we had such an overwhelming oversupply of transportation facilities.

Your draft is always limited by the obstruction in the neck of the bottle. I would like to ask some of the operating gentlemen in this vicinity how adequate they think the present supply of car floats in and about the harbor of New York is. I wish someone would tell me where you could rent or buy ten pier floats tomorrow. I am told on very good authority that they are not available. Consequently, I am inclined to admit that we have had an unparalleled growth of transportation facilities, but to deny that the excess supply, if such there be, can be determined by looking at the delusive figures on the asset side of the balance sheet.

Hundreds of the specific assets have long ceased to be physical aids in transportation. You might just as well write them out. If you eliminated the obsolete items in all your transportation facilities, you would be relieved in large part of this incubus of a huge oversupply.

That is the first qualification, and almost the only qualification, that I would venture to make concerning the excellent papers which were presented by Professor Cunningham and by Mr. Williamson.

They both agreed in one other point: namely, that some central control over these five different avenues or methods of transportation was necessary. We ought to have a glorified and omnipotent Interstate Commerce Commission, which would determine what the railroads, the water carriers, the pipe lines and the highway carriers were to do. I agree that it would be highly desirable, if it were possible, for some central controlling agency to determine and allot to each of these five agencies the field for which each was best and most economically fitted.

I cannot help feeling, however, that considerations other than economic considerations governing transportation are likely to interfere seriously with the realization of any such project. The airplane, for example, is not only a commercial instrument; it is a potential military instrument, and I doubt whether Congress will ever surrender to any administrative board so full a control over airplanes as to jeopardize the Congressional appraisal of the necessity of developing that particular carrier as a military instrument. That may be unfortunate, but I think it is one of the hard realities which we must face. Then, too, I confess, I am almost as pessimistic as my friend, Mr. Jordan, not about things in general, but about this one thing, that we shall ever induce the people of the country to believe that the natural waterways are not a donation by nature or by heaven whose improvement must inevitably be of national and popular advantage. When the matter is reduced to dollars and cents, I think this is a pervasive and profound delusion, but I despair of ever inducing my fellow citizens generally to abandon their belief that natural waterways should become transportation facilities.

I have a vivid recollection of being in St. Louis about ten years ago. There, along the waterfront, green grass actually was growing in the streets, and a few old hulks were tied up along the shore. I was talking with a railroad vice president (I was working for a particular railroad company at that time), and as we passed along, he bemoaned the fact that this natural artery was apparently devoid of any commerce whatever, that this heaven-provided and costless waterway was being allowed to flow by the vacant docks and wharves. He bewailed, also, the useless expenditures being made by his own company and other companies in wasteful provision for transportation by rail.

I leave with you, then, two suggestions. In the first place, I am not so much alarmed as some of my friends about the present oversupply of actual and immediately usable instruments of transportation, particularly as against rising demand for transportation service; and, in the second place, while I devoutly subscribe to the ideal desirability of some central control that should allot to each of these services its proper field and restrict it thereto, I am bound to say that I regard it as an ideal whose realization I am not very likely myself ever to see.

I appreciated the scholarly and illuminating paper presented by Dean Garrison, and I was immensely entertained, and only slightly depressed, by the comprehensive world survey that we had from Mr. Jordan. (Laughter and applause)

Remarks by the Chairman

Hon. William L. Ransom: I thank you most heartily, Professor Daniels, for this characteristically delightful review of the addresses.

In presenting Professor Daniels, I omitted to say that I believe he is in very close touch now with the problems of railroad administration, because by designation of the Federal Court, he is the trustee of the New York, New Haven and Hartford Railroad, in receivership.

This meeting is now open for a brief period of discussion from the floor. That discussion will of necessity take place under enforcement of the five-minute rule. If any of you have anything you wish to submit or add to this symposium of views, the floor is yours, with the restriction that you keep within five minutes.[1]

[1] Space limitations make it impossible to print in these Proceedings the interesting discussion by several members who spoke from the floor under the five-minute rule.—Ed.

PART II

THE RAILROAD SITUATION CRITICALLY ANALYZED

INTRODUCTORY REMARKS *

ELIOT WADSWORTH, *Presiding*
President, Boston Chamber of Commerce
Former Assistant Secretary of the Treasury

THE subject this afternoon is "The Railroad Situation Critically Analyzed". I do not know whether that "critically" means with criticism or with great care, but I suppose we will all have suggestions to make. What has appealed to me about the railroads is their apparent lack of a selling department. The railroads began with a monopoly of all heavy traffic. They are now confronted by increasing competition. It has seemed to me, as an outsider looking on, that they have overlooked what is one of the most essential agencies in any modern business—whether it be telephone service or automobiles or drugs or anything else—and that is, a systematic effort to sell their commodity, namely, transportation.

The railroads began in a market in which the only competition was the distance an ordinary individual could walk on his legs or travel with a horse and buggy. Gradually they have come into a market where the average individual has a car standing at his door, which will go as fast as most railroad trains, and where the manufacturer, who has freight to ship, has a very energetic and tactful truck dealer trying to sell him trucks, or a truck owner trying to sell him transportation. The development in that field has come about very rapidly.

The automobile people have developed perhaps the greatest technique in selling that exists in any field, and my impression of the railroad technique in selling is that it has not kept pace with that of its competitors.

* Opening the Second Session of the Fifty-Sixth Annual Meeting.

I had occasion to get some figures which relate to this competition in connection with a case that we had in the Boston Chamber of Commerce some two or three years ago. Of course, up in New England we are the great center for truck business. Our distances are short, our roads are good, and the truck is at its very best there in carrying on short haul business. The railroads have suffered perhaps there as much as anywhere else in the country.

There was a formal proceeding before the Interstate Commerce Commission and the Chamber wanted to develop information as to the movement of truck traffic between New York and Boston. Investigators made three checks at a point on the old Boston Post Road just east of the Connecticut line, during several periods of forty-eight hours. Their statistics disclosed that 4,873 trucks, or an average of more than 100 per hour, passed the point where the check was made. We then consulted six of the big truck companies to get an idea of what the average load of those trucks might be, and they estimated that it would be from eight to ten tons. We allowed only four tons to a truck, taking an average of 100 trucks an hour. That would mean 400 tons per hour, 9,600 tons per day, 2,880,000 tons each year of three hundred working days. Estimating the tonnage in terms of railroad cars carrying twenty tons each, it is the equivalent of 144,000 loaded freight cars. These figures are for only one highway leading into New York from the New England district, but they indicate why the railroads report that their freight business has been reduced 30, 40 and 50 per cent in the last few years.

I would suggest as an important factor in dealing with this phase of competition, the creation by the railroads of a more energetic sales department, in order to compete directly with the trucking and other interests which are so active in soliciting business.

In meeting the problem of individual automobile competition the railroads really seem to have made some progress. They certainly have on the Boston & Maine, where the new gasoline train running to Bangor has become so popular that many persons who formerly drove their cars into Boston now go down to the city by rail, avoiding expense, discomfort and the parking problem. I have been told by the representatives

of the Boston & Maine that the low fare and the fast train, with its comfortable arrangements, have apparently turned the tide in favor of the railroad.

Our first speaker this afternoon will discuss rates, wages and taxation. He is by profession a lawyer and has advanced far in the railroad business through the legal departments. I will not read all the positions which he has held since he began the practice of law in Mississippi. He specialized in legal matters connected with railroads, serving as General Counsel for the Illinois Central Railroad and then as Vice President and General Counsel of the Association of American Railroads, which office he has held since November 1, 1934. I take great pleasure in introducing Mr. Robert V. Fletcher. (Applause)

RESTRICTIVE LEGISLATION, RATES, WAGES AND TAXATION

ROBERT V. FLETCHER
Vice President and General Counsel, Association of American Railroads

I AM sure that all of us identified with the transportation industry are deeply grateful to the Program Committee of the Academy of Political Science for devoting this fifty-sixth annual meeting to the vital subject of "Transportation Development". Just as there are important aspects of production and consumption that call for study by those who are giving attention to the evolutionary processes in the domain of economics, so there are many phases of transportation, having to do with distribution, which challenge our earnest attention. This program deals with a variety of questions of interest to every student of the general problem — questions which call for careful thinking by informed and serious minded students of our political and economic system.

I mention the political side of the subject because it cannot be ignored in any practical or worthwhile consideration of the topic. Without making the slightest pretension to being an economist, I think I am safe in saying that the laws of economics are never permitted to operate in a vacuum, certainly not outside of the pages of some fanciful romance after the manner of Plato or Sir Thomas More. We must approach our consideration of the topic assigned to me for discussion with due regard to the structure of our government and the quality of our thinking upon questions that are essentially political. I am proceeding upon the hypothesis that, in spite of recent world developments and tendencies, we here in America are still devotees of the democratic principle. This should mean, as applied to the subject of this address, that our people will not tolerate a policy that fosters or even permits what true democracy chiefly abhors, the exercise of special privilege. This is the very foundation stone of democracy and here we may safely plant ourselves.

A policy that steadfastly refuses to recognize the right of special privilege to exist, by the same token, insists upon equality before the law as a cardinal working rule. This familiar truism no one will dispute. The difficulty, of course, lies in its application. For due regard for equality does not preclude the right to classify or, in other words, to consider dissimilarity of circumstances and conditions in determining a particular course of conduct. No one would contend, for example, that every citizen of the United States should pay exactly the same amount toward the necessary expenses of government, irrespective of ability to pay, or regardless of the quantity of governmental protection.

This leads us to a brief consideration of the nature of our transportation agencies and their place in any well-arranged economic system. It is easy to understand that in primitive society, the distribution of goods and the transport of persons did not call for the services of public carriers. But as the organization of society became more complex, as the boundaries of neighborhoods were extended, and the mental horizons of the people were widened, there was an increasing tendency toward specialization, with the consequent necessity for exchange of commodities and the increasing need for improved transportation facilities. It is not difficult to comprehend the distinction which arose in the public mind between the business of transport and the business of production and sale. Almost anyone, however limited his means or outlook, could engage in farming or small factory production or merchandising, without great difficulty. But when it came to sending products for considerable distances, it was obvious that relatively small producers and merchants were driven to collaborate in employing carriers expert in the business of transport and for whom a full load need not be provided by one person. As trade expanded, those therein employed became almost wholly dependent upon these carriers for their markets and supplies.

Not unnaturally, there arose an insistent demand that these carriers should not be left free to refuse service, or charge unreasonable prices, or act arbitrarily in fixing charges as between competitors. And so, in order to exercise a certain measure of control over these essential transport agencies, while at the same time leaving ordinary industry undisturbed, there was

invented the convenient and ingenious phrase " affected with a public interest ", to furnish a basis for public regulation and for the enforced assumption of certain obligations to the public. The fact that the carriers were few in number and their patrons numerous and smarting under common grievances made easy the task of fastening upon the carriers a legal status from which they have never been able to escape. In most of the countries where the democratic principle has found no permanent recognition, this status, for one reason or another, has developed into government ownership and operation of the railroads as the most important agencies of transportation. In the great democracies of Great Britain and America, the principle of public control has gone no further than to provide for a system of regulation of rates and practices in the public interest, leaving the ownership of the property and the risks of the enterprise in private hands.

Here in the United States, as may have been expected under our dual system of government, where for the first seventy-five years of our history the authority of the states predominated, the initiative in regulation was taken by the states in that period when the Granger legislation was popular. That legislation varied in range from statutes in some so-called conservative states (I might mention Massachusetts) aiming only at publicity, to statutes in other states actually prescribing rate schedules. For a time, the Supreme Court of the United States seemed inclined to the view that such statutes were of legislative rather than judicial concern. And what is even more remarkable, that great tribunal for a time seemed disposed, even with respect to interstate rates, to leave the states unrestrained in their power to regulate, in the absence of Congressional action.

Ultimately, however, after some hesitation, the commerce clause and the Fourteenth Amendment to the Constitution were so construed as greatly to restrict the power of the states in the matter of rate regulation, particularly interstate rates. Thereupon, Congress, in order that the field might not be left unoccupied, enacted, in 1887, the original Act to Regulate Commerce, creating the Interstate Commerce Commission and giving it power to prohibit unreasonable and discriminatory rates. It may be interesting to inquire at this point why, in accordance with the democratic principle of equality, Congress

did not, at this time, extend regulation to forms of transportation other than railroads.

Of course, there was then no considerable commercial transport on the highways, none through the air and little, if any, by pipe line. But traffic on the waterways preceded the dawn of authentic recorded history and there was certainly some competition in 1887 between water craft and railway trains. But at that time, the Panama Canal was no more than a dream, the self-propelled barge was unknown, and navigation on the Great Lakes, especially as to package freight, was largely under railroad control. Congress could not visualize a situation in which the construction of the Panama Canal, the enactment of the Panama Canal Act, prohibiting railroad control of water lines, the subsidizing of water transport by the United States Government, the establishment of the Federal Barge Line, the expenditure of huge sums in waterway improvement and construction, and the operation of the long and short haul clause made rigid by amendment would so alter the situation as to make the water lines real, militant competitors of the railroads. Whatever the motivating impulse, the original Act of 1887 limited the regulation of water rates to those established by carriers partly by railroad and partly by water when both are used, under a common control, management or arrangement for a continuous carriage or shipment in interstate commerce—a limitation that has survived through the entire fifty years of regulation.

The original Act, in the light of later amendments, impresses the reader as being ultraconservative. Some of its language was borrowed from the English Railways and Canal Act. It suggests the theory that the ends sought could best be accomplished by publicity, rather than by the imposition of penalties. It contains the classic inhibition against rates that are unreasonably high and unjustly discriminatory. It contains a long and short haul clause, but the prohibition extends only to rates where circumstances and conditions are similar. The Commission created by the Act is given authority to apply to the courts for injunctive decrees to enforce its orders. Carriers were required to file tariffs showing all charges, which could not be changed except upon ten days' notice. This initial

venture into the field of federal regulation remained substantially unchanged for sixteen years.

In this period, largely under the guidance of a truly great thinker and jurist, Judge Cooley, there were announced certain fundamental principles of rate regulation, some of which happily survive; others, unfortunately, have been discarded, under pressure from groups clamoring for reform. In 1903, in the administration of Theodore Roosevelt, the original Elkins Act was passed, making it a criminal offense, punishable by fine, to deviate from the published tariffs or to grant rebates. In 1906, this punitive statute was amended by providing prison sentences for railroad officers or shippers who granted or received rebates. By this same Act, the grant of free passes, with certain exceptions, was prohibited and the Commission was given authority to establish maximum rates. These were the changes recommended by the President and the regulation of the railroads was thought to be complete.

On the whole, and in the light of experience, there is ground for belief that regulation should have stopped just there. (May I say that this paper was written as an expression of my personal views. I have no authority to speak for any railroad, for the railroad industry or for the Association of American Railroads.) It is doubtful if the numerous drastic and far-reaching amendments of later years have operated in the public interest. That a certain measure of regulation of transportation agencies is desirable, few students of the question now deny. Certainly no one of consequence would advocate a return to the era of rebates and uncensored rate making. Such a state of affairs would be beneficial to neither the patrons nor the owners of the railroads. But the Act to Regulate Commerce and the Elkins Act, as they stood after the amendments of 1906, probably contain every provision that is essential to the protection of the public interest. The legislation as it stood then represents that happy medium which avoids, on the one hand, the evils of extreme restrictive legislation, with its paralyzing effect upon managerial initiative, and, on the other, the evils of unrestrained and often short-sighted and narrowly selfish individualistic policies.

Most of the important changes since 1906 have been in the direction of strengthening bureaucratic control, at the expense

of efficiency. Particularly have these amendments been at the expense of that flexibility so essential to the adaptation of the machine to changing conditions.

I should like to examine a few of the so-called reforms that came subsequent to 1906. In 1910, the Commission was given authority to suspend proposed changes in rates and hold them in suspense for seven months. As a practical matter, the Commission has, not infrequently, requested the carriers voluntarily to extend the period of suspension beyond seven months, pending investigation, and such requests are almost invariably complied with under fear of a summary adverse decision. If the Commission were gifted with that prescience which would cause only unjustified rates to be suspended, there could be no quarrel with the suspension statute. But it is obvious that if a rate change is justified and necessary to meet changed conditions, whether of competition or of some other nature, the end sought is too often defeated by the long period of delay. The desired traffic has gone elsewhere, or the needy carrier has been weakened by lack of nourishment.

Likewise, in 1910, the long and short haul clause was amended by omitting the all-important phrase "under similar circumstances and conditions". It is difficult to exaggerate the adverse effect of this significant amendment. Theretofore, carriers had been permitted, within reasonable limits, to meet competition where they found it, in accordance with a familiar economic principle, recognized and practiced by every manufacturer, merchant, farmer and moving picture operator in the country. Subsequently, the railroads were restricted in their efforts to meet competition by a rule so artificial and irrational that it might well have been designed deliberately to handicap the railroads in the competitive race. The result has been to penalize the interior, wholly dependent upon rail transport, and to create an unnatural monopoly, utterly at variance with any sound competitive theory.

I think it can safely be said that the consolidation plan found in the Transportation Act of 1920 has proved an almost complete failure. But for certain rather incidental sections of the law which, sensibly construed, has permitted some important leasing arrangements, nothing significant would have been accomplished. The failure of the plan to consolidate the rail-

roads of the country into a few large systems is in no way attributable to the Commission, which has labored long and arduously to make practicable a scheme condemned by its own artificiality and additionally hampered by standards which no one can observe.

Then, too, nothing of real value has been accomplished by the Valuation Act of 1913. Its cost, to both the railroads and the taxpayers, has been enormous, in the expenditure of both money and effort; but out of it has emerged little except dreary volumes of statistics that are now largely obsolete. So far as I am informed, the findings of the Commission as to railroad values have never been adopted as a basis for making rates, or for approving a consolidation, or for authorizing the issuance of securities. Indeed, the integrity of no single railroad valuation has ever been established by any court of final or competent jurisdiction.

That near kinsman of the Valuation Act, the recapture statute, has been abandoned as utterly futile and unworkable. Hailed in 1920 as a panacea for all railroad ills, and as life-giving nourishment for the weak sisters, it proved ineffective, partly because it depended for support upon the broken reed, the Valuation Act, and partly because it assumed the existence of a quality in human nature of which only the altruists dream. In 1933, it was relegated to the shelves of the museum upon which repose a fine collection of legislative curiosities.

Of course, something can be said for the value of the statutes giving the Commission control over the issuance of railroad securities and control over the supply of transportation by making it necessary to secure authority for construction and abandonments. I am not, however, convinced that the public and the transportation industry have been benefited more than they have suffered by the exercise of these powers, conscientiously as the Commission has endeavored to discharge its duty. In the matter of abandonments, it has always seemed to me that the enlightened self-interest of the carrier can be trusted not to give up an operation which holds out any reasonable prospect of business; and without such prospect, how can real public necessity exist? As to improvident issuance of salable securities, some control may be desirable for the protection of investors, but this is not an aspect of the problem

peculiar to corporations engaged in transportation. One's views of the wisdom of these regulatory measures depend upon his general attitude toward the function of government in relation to business.

Another recent excursion by the government into the domain of management was the Transportation Act of 1933, with its provisions for coördinations under the patronage of a coördinator. This unique legislative measure, ostensibly designed to eliminate competitive wastes, failed of its principal object, not because it was not wisely administered, but because it ran counter to certain qualities of human nature which cannot be ignored. As yet, so powerful is the democratic tradition that the rôle of the autocrat is a difficult one, however justly, patiently and temperately he may play his part. This is particularly true when the law he is instructed to administer exalts an economic abstraction, sound enough in theory, above the inclinations of the owners, the users and the employees of the property. The refusal of the Congress to continue this Act in effect is one of the most hopeful signs of the times.

If we could turn back the clock to the legislative status that existed after the 1906 amendments, we would greatly simplify the important process of putting all forms of transportation upon an equality in the matter of regulation. It has been forcefully argued that it is absurd to subject a single truck or a single tow boat to the cumbersome, intricate rules and regulation to which the railroads must conform. Opponents of equality in regulation paint vivid pictures of the plight of the small operator, confronting the maze of federal requirements and bewildered by their ponderous machinery. But his difficulties would be greatly reduced if he were required to do no more than was exacted of the railroads in 1906. Surely he could file reasonable and non-discriminatory rates, contained in tariffs which he could easily observe. He could comply with reasonable accounting rules and make such reports as the Commission might, in its discretion, require. These rather simple restrictions, if they may be so called, would fairly well represent the measure of his regulation.

We have all about come to the conclusion that common justice, as well as economic stability, calls for equality in the matter of regulation, where the transportation agencies are

competitive, as in the case of the railroads, the highway vehicles and the water carriers. Some insist that the water lines must be regulated as are the railroads, the busses and the trucks. Others advocate removing all regulation from rail and highway transport, so that all competitors may have a free-for-all fight, with no favors asked and no quarter shown. Others favor removal of some of the restrictions resting on the rail and highway carriers and bringing water carriers under the same modified form of regulation. I enroll myself with those who find themselves more comfortable on middle ground and I respectfully suggest that in the matter of regulation of rates and practices the year 1906 furnishes a good example of that moderation which is most conducive to safety and success.

I turn to a brief consideration of the restrictions imposed upon the rail carriers in the matter of their relations to their employees. The classic attitude of organized labor is one of settled opposition to legislation with respect to wage scales and rules controlling working conditions. Union labor has always favored the plan of settling controversies over these vital questions by processes of negotiation, influenced in some cases by the exercise of its economic power, as it euphemistically refers to the right to strike. Indeed, upon only one occasion has Congress undertaken to deal directly with the delicate question of what shall constitute the sum to be paid for a given number of hours spent in the service of a railroad.

I refer, of course, to the Adamson Act of 1916, enacted by Congress as an emergency measure and as such upheld by the Supreme Court. Previous to that time, there had been enactments passed in the interest of safety and humanity, such as the Safety Appliance Act and the Hours of Service Act. The Adamson Act, applying only to men engaged in train operations, and for the first and last time fixing wages by legislative fiat, was passed at the behest of the President, rather than at the request of organized labor. It was temporary in its operation and, as the Supreme Court subsequently declared, it went to the very limit of Congressional authority.

When the Transportation Act of 1920 came to be written, with its many innovations, there were included provisions creating the Railway Labor Board, with power to fix wages and settle controversies over working conditions. As a result of

one of its decisions, there was, in 1922, a nation-wide strike of mechanical workers. The effect of this serious labor disturbance, perhaps the most serious in the railroad industry since the Pullman strike in 1894, was sufficient to lead, after considerable delay, to the repeal of the Act creating the Railway Labor Board, with power of decision as to wage scales, and to the substitution therefor of the Railway Labor Act of 1926, to the terms of which men and management finally agreed.

Under this law, as amended in 1934, arbitration is encouraged but not made compulsory; fact finding by a presidential committee is provided for, if arbitration is not agreed to; and boards of adjustment, with a neutral referee in case of disagreement, are created to deal with disputes as to the proper interpretation and application of working rules. The Act further encourages the organization of workers into groups, for the purpose of collective bargaining, and condemns the exertion by management of any influence in the setting up or conduct of such groups.

The Emergency Transportation Act of 1933 went very far in prohibiting the discharge or demotion of men as the result of the coördination of railroad facilities, but that Act is not now in effect. The protection which it afforded to labor is, in some degree, accomplished by the agreement of 1936, under which unemployment benefits for a generous period are agreed to be paid to those displaced by coördinations. The controlling act, at the present time, therefore, is the Railway Labor Act, with the incidents which have been mentioned. On the whole, it can be safely said that few fields of endeavor of the magnitude of the railroad industry have been for so long a time free from serious disturbances.

The policy of adjusting controversies by negotiation and arbitration, rather than by government tribunals with authority conferred by law, has not operated to the disadvantage of railroad workers. This is shown by the fact that the average hourly compensation of railroad employees has increased from 28.3 cents in 1916 to 68.6 cents in 1935, an increase of 142.4 per cent, while in the same period the cost of living has increased only 26.8 per cent. Translating these hourly wage figures into terms of yearly compensation, we find that whereas the average annual pay of railroad employees in 1916 was

$892, the figure has grown in 1935 to $1,653. It is true that this growth in unit labor costs, coupled with decline in business, due to the depression and the diversion of traffic to competing forms of transportation, advantaged by government subsidies, has led to a marked decline in the number of persons employed, the decrease being from 1,647,097 in 1916 to 994,371 in 1935.

Such a result is the unavoidable consequence of economic laws which all of us are powerless to repeal. Charged with the obligation to avoid waste and extravagance, the railroads have been forced to reduce employment as business declined in volume. Furthermore, as unit labor costs steadily rose, it was necessary to increase the productivity of the men employed. Railroad statistics reflect the operation of this inevitable law. Freight cars per train have grown from 38½ in 1921 to 46¼ in 1935; gross ton-miles per freight train hour from 16,500 in 1921 to 28,750 in 1935, while at the same time freight and passenger train schedules have been speeded up nearly fifty per cent. In this period, 1921 to 1935, the rate level, both passenger and freight, has steadily fallen, the decline in the freight rate level being 23 per cent and in the passenger fare level 38 per cent.

It can be confidently asserted that there are hopeful indications of an increasing tendency toward adjusting by conference and agreement controversies between men and management as to conditions of employment in the railroad industry. It is generally recognized that railroad labor in the United States tops the list in the matter of wages, reasonable hours of service and conditions of employment generally. It is likewise true that railroad employees rank very high in the scale of intelligence, social standing, economic independence and political influence.

The great problem that remains unsolved is that of unemployment, a problem, however, that is not peculiar to the railroad industry. Indeed, it is a problem that is well-nigh universal and which taxes the resources of statesmanship in every part of the world. I have neither the time nor the ability to discuss it here. I can only express the hope that the railroads of the nation, manfully struggling toward recovery, will not be selected for exceptional experimentation along a course

which has not been fully charted or indeed adequately explored.

At the outset of any discussion of taxes, we are confronted with the disagreeable fact that whereas, in 1916, the railroads paid in taxes 4.4 cents out of every dollar of revenue received and 13.1 cents out of every dollar of net railway operating income before taxes, in 1935, these ratios had grown to 6.9 cents and 32.2 cents, respectively. I am not prepared to say that this mounting burden of taxation is out of line with what is paid by industry generally, although in certain taxing jurisdictions unfair discrimination could easily be established. But the railroads do have a legitimate cause for complaint in the fact that they are required to pay out seven cents for every dollar taken in, while their competitors on the highway pay out about three cents and their competitors on the waterways next to nothing at all. Here lies an opportunity to correct an inequality and an injustice which should challenge attention.

In the matter of federal taxation, the railroads are in accord with the protest forcefully presented by all corporations of any magnitude against the unfair and illogical theory of imposing income surtaxes upon a progressive scale, measured by net income, without reference to investment. Every student of taxation recognizes that such a system penalizes the man who happens to have an investment of a certain amount in a large corporation as against his neighbor who happens to have the same amount invested in a small corporation. A scheme of surtaxes which ignores the ability of the stockholder to pay has no support in reason or justice.

The current law imposing heavy taxes upon undistributed income operates with special hardship in the case of the rail carriers. This results from the peculiarities of their accounting practices, as prescribed by the Interstate Commerce Commission, practices which are designed to give a true picture of investment, without reference to questions that may arise in connection with taxation. For example, if an ordinary business corporation finds it necessary to replace an outworn structure or device, it may charge the entire cost of such replacement to operating expenses, without reference to the cost of that which is displaced. But if a railroad company spends \$15,000 to replace a structure which cost \$10,000, it may

charge to operating expenses only the cost of the abandoned property, with a consequent addition of $5,000 to capital account, thereby adding a purely fictitious amount to the sum total of its taxable profits. Not only do railroads suffer by their enforced adherence to such accounting rules; the law checks, if it does not wholly prevent, the accumulation of sinking funds to retire indebtedness, a policy which has been urged upon the railroads from very high quarters indeed. The railroads join with industry generally in an appeal to Congress so to modify this experimental legislation as to permit corporations to pay their debts and enlarge their plant through capital expenditures.

Conscious of its obligations as a quasi-public servant, the railroad industry, ready and anxious to serve, hopeful of the future as America goes forward, asks only that the hand of government be not so heavily laid upon it that it may not utilize the energy, the initiative and the enthusiasm of those who have devoted their lives to its welfare.

Remarks by the Chairman

Mr. Eliot Wadsworth: I am sure we feel very grateful to the last speaker, Mr. Fletcher, for explaining at least some of the phases of the maze in which the railroads operate. That word has been used before in this meeting. We must all sympathize with the railroad people themselves in trying to find their way through the restrictions under which they operate. And now I take pleasure in introducing our next speaker, who is known to everyone who has ever taken an interest in the railroad problem, for his extraordinarily interesting writings and speeches. He has had a varied experience in business in Wall Street and with the Wall Street Journal. He served as a member of the Interstate Commerce Commission for a number of years, and still is associated with the Wall Street Journal. It is a great pleasure to introduce Mr. Thomas F. Woodlock, who will speak on "Competition, Within and Without". Mr. Woodlock! (Applause)

COMPETITION WITHIN AND WITHOUT THE RAILROAD INDUSTRY

THOMAS F. WOODLOCK
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LIMITATION of time compels me to treat my subject in bare outline. I shall avoid statistics. What I shall try to do is to show you that what we may for convenience call the " public mind "—in that phrase I include the public itself, the Congress and the Interstate Commerce Commission—has from the very beginning been considerably confused in dealing with this matter of competition in the railroad industry, and that this confusion is still one of the main ingredients in what we call the " railroad problem ".

It is always helpful in discussing anything to begin with a clear concept of the thing about which we are talking. That thing is competition. In the first place, quantitatively considered, competition is synonymous with waste — waste of energy, material and money. It necessarily implies at least two persons, two plants, two aggregations of capital or money standing ready to do one thing or perform one service, which can be done or performed by either of the competitors. Next, in all competition there is a winner and a loser. We profess to distinguish between competition which is useful and competition which is wasteful, but that distinction is qualitative. It is apparently based on the assumption that trial and error is the law of what we call " progress ". Competition is the form in which the process of trial and error expresses itself and we say competition is useful when it produces progress and wasteful when it does not. It must, however, not be forgotten that the path of progress is strewn with casualties. As David Cushman Coyle has neatly put it, " a country can stand as much progress as it can stand bankruptcy."

Competition and economy are incompatible notions—something that I beg you to bear in mind during this discussion, for

failure to realize that fact is an important source of the confusion in popular thinking to which I have referred.

Competition between the railroads, as we all know, first concerned itself with railroad building. I need do no more than refer to the tremendous rush of competing companies to occupy our gigantic territory, which began at the close of the Civil War, and in the span of one generation or so gave this country half the railroad mileage of the world. All our people joyfully acclaimed and eagerly encouraged the advent of the rails—frequently with gifts of land, town sites, and even money. Capital invested in a railroad is irrecoverable. Immense sums of capital were sunk by its owners in this way and enormous losses were suffered by those owners. The country as a whole was temporarily overbuilt, both competitively and absolutely, hence the losses suffered by original investors, but the losses were concentrated on a few and benefits were enjoyed by the many. There was in the operation as a whole abundance of bankruptcy, but at least an equal abundance of progress.

The real competition between the railroads, however, was to come, and it came the moment that trains began to run on the new rails, in the shape of a struggle for business. You are all so familiar with the facts that I need only refer to the growth of the rate war and the rebate, as the weapons with which the railroads fought each other. As soon as this started there came a fundamental change in the public attitude regarding railroads. They ceased to be public benefactors and began to assume the rôle of public enemies. Out of that change has come the railroad problem, as we have had it for two generations and still have it today.

The farmer was the first to lay his woes at the door of extortionate rates charged by the railroad, and the Granger movement of the seventies was the first of the pressure groups which afterwards became so numerous. Out of the Granger movement grew the state railroad commissions and the beginning of public regulation. All these bodies were a combination of policeman, prosecuting attorney and magistrate—at least in psychology. Meanwhile, synchronously with this inception of regulation came at least a partial realization on the part of the companies that competition in rates meant destruction of all, and the railroad "pool" was born, as a cure for the rate war.

I take it that you are sufficiently familiar with the history of that institution while it lived, and I merely note that as soon as it proved to be an effective remedy for indiscriminate rate cutting—as it did under the managing genius of Albert Fink—the public rose in opposition to it, and the " monopoly " specter appeared on the political scene. State regulatory commissions did their part in fomenting the public alarm and the result was the prohibition of pooling by the Interstate Commerce Law. By this time the notion that competition was an indispensable requirement in the railroad industry had firmly established itself in the public mind, from which it has never been dislodged.

The last really important rate war—the trunk line war of 1884—just antedated the Interstate Commerce Act, but that war was mainly the outcome of an important piece of purely competitive railroad construction—the building of the West Shore Road. Notwithstanding, however, the legal prohibition of pooling, rate wars became relatively fewer and smaller following the Interstate Commerce Law. The instinct of self-defense by coöperation had crept into the railroad manager's consciousness and there grew up traffic associations, the object of which was to obtain some kind of common action to maintain rates. It was supposed, for a time, that these were within the law, but in the middle nineties they were declared to be in violation of the Sherman Anti-trust Act, and the sacred principle of railroad competition received a further boost.

It is interesting to observe that the Interstate Commerce Commission was at least partly alive to the problem thus presented, and in its report to Congress in 1898 it pointed out that while every other nation in the world at that time regulated railway rates, none enforced competition between railways. It had, moreover, in the previous year repeated its suggestion made in 1894 that under strict regulation it might be safe to permit pooling. Again in 1901 it said: " In justice to all parties we ought probably to add that it is difficult to see how our interstate railways could be operated with due regard to the interest of the shipper and the railway without concerted action by these associations "—that is, the traffic associations already mentioned. And in 1900 it said: " Competition is wasteful. Owing to it transportation by rail actually costs

more than it ought. To eliminate that competition will be to work an actual saving in the cost of the service and this should redound to the benefit of both the carriers and the shipper." This was very sound doctrine, no doubt, but without any perceptible influence upon either the public or the Congress.

One reason for this was, undoubtedly, that by this time the railroad managers had themselves entered upon a policy of self-defense, which proved effective enough to arouse fresh alarm in the public and the political mind, and utimately in the mind of the Commission.

Largely under the lead of President Cassatt of the Pennsylvania Railroad, the managers had gone a long way in accomplishing three things, all in the nature of self-defense, the effect of which was to make the monopoly ghost still more terrifying to the public—or at least to the politician. By the later nineties the general freight rate level had reached what proved to be the bottom. President Cassatt undertook a vigorous campaign among railroad managers to exterminate the rebate and to raise the rate level. In both he was succesful, so that by the time the Elkins Act of 1903 was passed—largely, by the way, on the initiative of railroad managers themselves — outlawing the rebate, the rebate itself had largely disappeared. Also the freight rate level had been lifted quite appreciably. It was about the turn of the century that the " community of interest " phrase appeared in print, and upon its heels came that series of purchases by one railroad of the stock of another, which culminated in the Northern Pacific panic of 1901 and the formation of the Northern Securities Company, ultimately condemned as in violation of the Sherman Act. The effect of all this was naturally to fix more firmly than ever in the public mind the belief that competition between railroads must at all hazards be preserved. Also it gave a tremendous impetus to the passage of the Hepburn Act of 1906, which for the first time gave the Commission some real power to determine rates, which power, four years later, was made plenary by the Mann-Elkins Act of 1910. Furthermore, the series of important cases of 1911-12, brought under the Sherman Act against several so-called " trusts ", and the passage of the Clayton Anti-trust Act gave the " competition idea " fresh vigor.

It may be helpful here to pause for a short analysis of the contents of the competition idea as then entertained by what, for convenience, we call the public mind. Probably, for most people, it was a combination of instinct and vague hope. The instinct of "anti-monopoly" was always universal in our people—is today—and is readily comprehensible. The hope was that if the railroads were forced to compete, rates would come down—also a simple and natural emotion. But it is quite certain that the full logical implications in the notion of competition were not then and are not even now generally recognized and accepted. The history of the fourth section of the Interstate Commerce Act will give us a demonstration of that fact. That section contains the so-called "long and short haul" clause, the principle of which is so well known that I need do no more than mention it.

The second and third sections of the Interstate Commerce Act condemned all forms of discrimination, undue prejudice and undue preference by railroads in the treatment of their customers. The fourth section is nothing more than a specific prohibition of a special kind of undue prejudice or preference, which was already covered by the preceding sections of the Act, and it was, therefore, pure surplusage. As originally stated, it was simply and accurately enough expressed in the principle of the preceding sections. It prohibited the charging by a railroad of any greater compensation in the aggregate for the transportation of passengers or of like kind of property *under substantially similar circumstances and conditions* for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance. Please note the phrase "under substantially similar circumstances and conditions", for it is vital.

If there are two lines between two points, one line being longer than the other, and if the two lines touch only at these two points, it is evident that the "circumstances and conditions" surrounding these two points differ from those surrounding all other intermediate points on both lines, inasmuch as the said two points have direct alternate transportation service between each other, which is not available to any of the intermediate points on either line. The rate between these two points is necessarily made by the shorter line. Consequently on a strict mileage

scale of rates, the rate of the longer would necessarily be higher between these points than is that of the shorter line, and might be a good deal higher depending on the difference in distance. If, then, the longer line wishes to share in the business moving between the two points, it must meet the short line rate. This rate will be less than it charges to an intermediate point. But this entails no discrimination against the intermediate point, for the simple reason that that point would be in no way benefited by its carrier refraining from this competition. If it is not benefited by its carrier refraining from meeting competition at the more distant point, it cannot be hurt by this competition being met.

So far as I am aware, in every country other than the United States, the long and short haul question has always settled itself on these simple lines—that is, by the presence or absence of competition at one point as compared with another. But not so here. Indeed, for the first ten years of its life the Interstate Commerce Commission declined to recognize the competition, which I have just described, as necessarily differentiating circumstances and conditions and consequently justifying relief from the fourth section of the Act, but in 1897 the Supreme Court forced it to do so. The Court's decision led to amendments of the section in 1910, one being of a highly significant character. This was the deletion of the all-important phrase concerning "similar circumstances and conditions". As you no doubt perceive, this amendment struck at the heart of the whole principle of the thing, and separated American theory from that universally accepted elsewhere.

Another amendment in 1910 provided that whenever a railroad secured permission to reduce the long haul rates to meet water competition, it could not afterwards increase them, unless it could justify the increase on grounds other than the elimination of water competition.

Next, by the Act of 1920 another amendment was enacted which further separated the law from the principle. This was the addition of the so-called "equi-distant clause". The new provision required that whenever the Commission granted relief from the fourth section, merely because one line was longer than another, higher rates than those of the competitive point might not be charged by the longer line to intermediate

points further distant from origin than the length of the short line to the competitive point. What logic there might be in this provision I have thus far been unable to discover. It was the Commission's own invention, apparently, for that body seemed to think that there was some necessary mathematical distance-relation of a competitive to a noncompetitive rate (46 I.C.C., 712-748). By the same Act, moreover, the Commission was prohibited from permitting the establishment of long haul rates that were not "reasonably compensatory". It was further provided that relief from the fourth section of the Interstate Commerce Act might not be granted on grounds of potential water competition.

I have gone into these details because they show in a striking way the various aberrations of the public mind in connection with this matter of competition. In the first place, the Commission declined to recognize the elementary principle expressed in the phrase "under substantially similar circumstances and conditions" until the Supreme Court forced it to do so. Then Congress struck that phrase from the law. Next, at the instance of the Commission, Congress enacted the so-called "equi-distant" clause. Finally Congress undertook to hobble the railroads in competing with water routes. As a result of these actions we have on the statute book a law on the long and short haul question for which no match can be found anywhere else in the world. It is literally a mass of inconsistencies. In the last session of Congress a bill was introduced, known as the Pettingill Bill, which correctly and succinctly stated the principle which should govern in the matter. It failed of passage, and I note the fact that the Interstate Commerce Commission did not give the bill, in all particulars, its approval.

When the Act of 1920 was passed the new highway competition had not definitely shown itself. The law still contemplated an essential railroad monopoly requiring regulation. It did, however, provide for a consolidation of systems into a limited number of large reasonably self-contained entities, but it also laid down the principle that in forming these consolidations and unifications, competition between the resulting systems was to be preserved, so far as was found possible. As you know, consolidation has made little progress. Several important proposals have been considered by the Interstate Commerce

Commission and rejected. In practically all cases disapproval was based, at least mainly, on the fact that these combinations seemed likely to restrict competition. Apparently the theory of the matter was that all the important centers in the three great districts should have at least two railroads serving them. Inasmuch as direct competition in rates was excluded, it must have been assumed that the railroads would compete in service. At the same time, however, the law in the famous section 15A, dealing with fair return, required honest, efficient and *economical* management. The legislation of 1933, establishing the federal coördinator of railroads, contemplated economy by extending the principle of joint ownership of facilities and terminals in large cities. Thus, the two opposing principles, competition and economy, were brought forcibly face to face with each other with the result that the basic antinomy in the situation became plainly evident. Notwithstanding the most earnest efforts of the coördinator, Mr. Joseph B. Eastman, little or no progress toward this kind of economy has been found practicable.

I digress for a moment to pay my tribute of admiration to Commissioner Eastman's performance of his task, as coördinator. It is not his fault that more progress in economy by coöperation has not been secured. Circumstances were too strong for him, and the law tied his hands in the most important respect, that of economy in labor. One thing can assuredly be said of the job that he has done: he has given the country, the railroads, their competitors and the public a mass of information concerning the facts which could have been secured in no other way. It is a particular pleasure to me to salute him as a master of his subject. (Applause)

So much for the public mind in its conception of competition within the industry. I might offer other instances of the attempts of the Commission to deal with the basic antinomy in the matter. For example, its effort to persuade Congress to broaden its powers, so that it could prescribe through routes and joint rates upon competing railroads, without regard to short hauling, is clearly an invasion in principle of a fundamental right of a carrier as a competitive railroad. I think, however, I have said enough to show that at no time from the inception of the railroad industry has public thinking on the

subject been clear. What that thinking has always seemed to contemplate was a constant effort to "preserve the best features of both" opposing principles. The trend of opinion has generally been against the carrier's own interest as a competitor.

Before touching the question of competition external to the railroad industry, it is well to consider the manner in which railroad management has dealt with its competition problems. I have no hesitation in saying that railroad managers, during the years following the Transportation Act of 1920, conducted a competitive campaign for business that went to extremes for which no rational excuse can be offered. The phrase "car-crazy" originated as a description of the efforts made by individual railroads to divert business from rival lines to their own. To such a length had these practices grown that managerial proposals were made to establish some semblance of order and reason by placing over the heads of the competing roads an authority to be known as "Czar". One of the wasteful results of this sort of competition has been the hauling of freight—as the phrase goes—"around Robin Hood's barn". It was a not unnatural result of conditions created by the general public policy toward the industry itself. While this may be an explanation of the situation, it cannot be regarded as an excuse for excessive competition.

It was about the time of the passage of the Transportation Act of 1920 that the railroads began to suffer from competition from external sources which has now become so acute as to require legislation. The motor industry has made practically its entire growth as a competitor with the railroad in the years since 1920. So far as passenger transportation is concerned, the tremendous inroads made by the highway upon railroad business have resulted from strictly private as contrasted with common carrier operations. If it had been only busses that the railroads were to meet, it is very doubtful whether railroad reports would have carried anything more than microscopic traces of lost revenue. As a matter of fact, out of 110,000 busses in service in this country not more than 60,000 are common or contract carriers in serious competition with the railroads. It is the private motor car, of which we have 23,000,000 in the country, that has bled the railroads white so far

as passenger transportation is concerned. When we come to freight the situation is not very different. Out of about 3,-500,000 motor trucks in the country a scant half million are common or contract carriers subject to public regulation. The remainder are privately owned trucks, carrying owners' freight, which are constitutionally free from any regulation other than that of the police power having regard to public safety. The new regulation undertakes to control common carriers and contract carriers of passengers and freight. We do not yet know to what extent it will be effective. But I should like you to note that, judging from the controversies already in progress, the highway operators seem to have the curious idea that, while they are entitled to compete with the railroads, the railroads are not entitled to compete with them! The present controversy between the trucking interests in the eastern district and the Interstate Commerce Commission is quite illuminating as to this curious warp in their concept of competition.

The fact, however, is that we now have a competition between railroad and highway transportation of an extremely acute kind, under which practically every sort of commodity that moves in carrier transportation is moving somewhere in the country by highway, where it formerly moved by rail, and everywhere in the country many commodities, which used to move by rail, are now moving by highway. Transportation is, in short, an acutely competitive industry. Furthermore, we have yet another form of competition in freight transportation; namely, that of the artificial inland canalized waterway upon which barges and trucks operate free of tolls. I have no hesitation in characterizing the attitude of the public mind—remembering what I mean by that phrase—toward this particular kind of competition as having been grossly unfair, from the very inception, or rather the reappearance, of water transportation. We have now had for the best part of twenty years the shocking spectacle of government itself operating trucks and barges upon the Mississippi and Warrior rivers in direct competition with privately owned railroads, using some $23,-000,000 of the public's money in the enterprise. At least ten times as much public money has been poured into these streams to make them navigable, and upon this investment there never

has been earned any sum to represent an appreciable return. Not only is this so, but the Congress by the Denison Act fastened these water lines as parasites upon the privately owned railroad systems by forcing the latter to accord through routes and joint rates with the water lines, thus extending the latter's scope of operation over an enormous territory to the direct detriment of railroad net revenues. Finally, with all the railroad rates subject to the strictest kind of regulation, the port-to-port rates on the water lines are still entirely immune from any public control. Could anything more clearly demonstrate that the public mind has come to regard its railroad servants as public enemies, notwithstanding the fact that they are strictly bound by a system of regulation controlling every single important activity of their owners?

I shall not attempt to settle or even argue the question of whether the cars, trucks and busses traveling the public highways pay their way directly or indirectly so far as public money is concerned, or whether they are in fact heavily subsidized. There can, however, be no debate concerning the subsidization of artificial inland waterway transportation. The situation is indefensible under any considerations of equity; that it reflects a definite and considered policy to which the public mind has given and still gives its assent is what, I think, justifies me in characterizing it as nothing short of a scandal.

In concluding this necessarily brief and very imperfect presentation of the matter of competition in transportation, I will venture to state what seems to me to be the only fair course for the public regulating authority to pursue. Since practically *all* commodities are now moved under competitive conditions in railroad, highway, waterway, pipe line or air transportation, and since *all* regions of the country are reached by one or another of these competing facilities, it is manifest that need for the strict regulation of railroad rates under section 1 of the Transportation Act of 1920 is rapidly approaching the vanishing point. Competition will provide regulation, so far as practically all the important rate structures are concerned. If anybody is curious to know what competition has already done to many of these structures, I may say that one of my last duties on the Interstate Commerce Commission was to readjust the rates on cotton moving by rail between all points

in the United States. In 1930 a schedule of rates east and west of the Mississippi River, prepared under my general direction, was approved by the Interstate Commerce Commission. Hardly had it gone into effect, when the motor truck commenced to tear it to pieces. A comparison of cotton railroad rates as they exist today with those laid down in the readjustment of 1930 would tell a surprising tale. Speaking broadly, and with all allowance for exceptions, my deliberate opinion is that the time has come to permit the railroads to readjust the entire structure of rates, as fast and as far as they can do so, to bring them into some kind of relation to the competitive highway and water rates.

No doubt there are places, and there are commodities, where outside competition has not completely infiltrated railroad business, and where it would be possible for railroads to exact unreasonable rates. What is perfectly clear to me, however, is this: that where railroads go to the Commission asking for higher rates, the Commission cannot logically reject them as more than maximum reasonable rates on the ground that they will not move the business. With all the foolishness attributed generally to railroad managers, it is hardly sensible to suppose that they will propose rates—or keep rates in force—without the expectation that the rates will move traffic, and if the rates *do* move traffic in competition with highway or water, how can they offend under section 1? In any event, a theory of rate regulation originally based upon the concept of the railroad as a monopoly is clearly out of place in dealing with railroads subject to the most acute competition that they have ever experienced. Whatever else we need, we need a complete change in psychology, for without it the thing that we call the "railroad problem" will continue insoluble. Furthermore, if any other reason were needed for turning the railroads loose to meet their competitors, it would be found in the fact that quite apart from common or contract carrier competition, we have 23,000,000 *private* carriers of passengers and 3,000,000 *private* carriers of freight. It is surely time for us to begin to think clearly and act fairly in the matter.

Remarks by the Chairman

Mr. Eliot Wadsworth: I am sure we all realize, after listening to Mr. Woodlock, what a rate expert is and why every big corporation and shipper has to have at least one rate expert on the staff. Our next speaker will discuss the subject of "Management and Financial Policies". He is a gentleman who has been in finance and banking in New York ever since graduating from college. He is a director of various corporations, representing both railroads and shippers. I am greatly pleased to introduce Mr. Henry S. Sturgis, Vice President of the First National Bank of New York. Mr. Sturgis! (Applause)

RAILROADS—MANAGEMENT AND FINANCIAL POLICIES

HENRY S. STURGIS
Vice President, First National Bank of the City of New York

A CRITICAL analysis of railroad management and financial policies seems to be called for in view of the general subject of the afternoon's discussion and the topic assigned to me. One who has many friends in the railroad industry is perhaps taking some risk of losing them by embarking upon such an analysis, particularly if the conclusions are likely to be critical. On the other hand, one may possibly do so if he admires, as I do, the very great accomplishments of railroad men in the face of conditions which would have discouraged and broken men less strong than they.

It is reported that over sixty million people, nearly half of our population, have a direct or indirect financial interest in the railroads. My friends in the railroad world will, perhaps, forgive me if I attempt an analysis of their attributes, both good and bad, when I assure them that it is done in a spirit intended to be wholly friendly and with a view toward contributing something to the solution of a problem of such great importance to the national economy.

I am taking the liberty of reversing the order of my topic, and of discussing first matters having to do with financial policy. Since several volumes could be written on this subject, I must limit myself to certain phases which strike me as having great importance at this time.

Commentators on railroad finance have had much to say in recent years about excessive debt, high interest charges, and sinking funds for the reduction of both. The railroads have been criticized for failure to reduce their debt and have been urged to resort to sinking funds for that purpose. But this argument for sinking funds is in my judgment specious and fails to recognize the fundamentals of railway financial necessities.

Railroad capital, like Gaul, can be divided into three parts. One part represents that which is obtained from those who are willing to take a low return in exchange for safety. A second part represents that which is contributed by those who are prepared to take a risk for a potentially larger return. The third part consists of equipment trusts representing an investment in a wasting asset.

The first two categories represent the investment in fixed property and working capital. Their combined total cannot be reduced. The railroad industry is not a dying or contracting industry; it is still an expanding industry. Therefore, it is generally agreed that more, instead of less, capital will be needed to meet the conditions presenting themselves. The crux of the matter lies in the ratio between the two parts which constitute the whole of fixed capital. It is raising a smoke screen to say that railway bonded debt is excessive and to go no further, for attention is thereby diverted from the real cause of the trouble. In relation either to earning power or to property values, the total of fixed debt was not excessive when it was issued. It has become excessive—if it is excessive—not for lack of sinking funds, but because of the decline in net earnings. And it is important to note that the decline in earning power results not only from a great depression, but from governmental and managerial policies going back well before 1929.

And there is some evidence that it is improper to say that taken as a whole the debt of the railroads is a real burden. In a report recently issued, The National Industrial Conference Board states that " no evidence exists to support the theory that business is saddled with too great a burden of private debt ", and as to the steam railroads the report says that problems of debt have developed " where specific policies of individual companies created difficulties."

Since the total capital in the railroad business cannot be reduced, sinking funds are not the answer to this financial problem. Any reduction of debt by a sinking fund is purely temporary and merely means that when new capital is required, the earnings used for sinking funds, instead of for capital expenditures, will have to be replaced and more new capital will have to be obtained than would otherwise be the case, with

attendant added financial costs to the roads. The only possible way to reduce railway debt in substantial amounts — except through the bankruptcy courts—is to change the ratio between debt and equity, that is to say, to transfer debt to equity. And this means that the equity must be made attractive. Sinking funds do the reverse, and reduce rather than enhance stock values. The cure of the debt situation is to attack the cause of the trouble—increase railroad net earnings, not only enough to make secure the fixed debt that exists, but sufficiently so that holders of indebtedness may be induced to exchange their obligations for stock and thus prepare for the next depression.

The worst feature of railway debt is that maturities, set many years ahead, often fall at most unfortunate times. Those who advocate sinking funds would do the railroads a greater favor, were they to recognize the fixed character of railway capital and advocate the issue of railway bonds as perpetual debt with no maturity except that which would come through failure to carry out the terms of the indenture. The injection of sinking funds can only be justified on the basis that the capital thus temporarily retired can be replaced at lower rates. That does not seem to be a probability at this stage of the bond market. Railroad management has been much too acquiescent in the present clamor for sinking funds, and should have done more to resist this pressure on them than to fall in with the demand for such a form of debt retirement.

The second item under financial policies that interests me has to do with reorganizations, of which several are pending. Railroad managements generally, particularly of those properties which have avoided financial difficulties, should be taking a greater interest in these reorganizations.

It is unfortunate that the new Bankruptcy Act makes it the duty of a debtor to propose a plan of reorganization. Obviously, the debtor is going to save all he can for himself from the wreck. He can do this only at the expense of the creditor. The Bankruptcy Act was intended to enable creditor and debtor to treat with each other and to hasten reorganizations, and thus reduce the costs of these proceedings. Instead, an attempt is being made to use the Act to preserve the interest of the debtor, all at the expense of those who loaned the money. This has

led to delaying reorganizations instead of hastening them. But far worse, it is destroying what little remains of railroad credit.

The railroads, in their own protection and for the preservation of their credit, should take a strong position that reorganizations must preserve the priorities. Stockholders of railroads which cannot meet their obligations are entitled, like any other debtors who have pledged their property for the payment of their debts, only to that which remains after the creditors have been satisfied as nearly as possible in full, or to such position as the creditors find it in their interest to give the stockholders, either for new money or for some other definite consideration. Any other view, if adopted, will further contract an already contracted market for railroad securities, and the railroads will need to go often to the money market in the years to come. Railroad management might very well advocate some changes in the Bankruptcy Act looking toward more realism in reorganizations. As it is, they promise to take endless time and to be more costly even than before.

Let us now turn from the capital structure to the earning statements of railroads. Here not only may be seen the dire effect of railroad policies, both governmental and management, but here also is hidden away one of the great causes of railroad financial troubles going back over many years. I refer to a cause of trouble to which very little attention has been given—the failure to include adequate reserves in the expense account.

In railroad expense accounts, reserves for bad debts are almost nonexistent. Such losses are very small, but such as they are, they are usually charged to surplus and not provided for in earnings. Obsolescence, of which so much exists, is completely unrecognized. A few roads set up some reserve for depreciation of structures, but very few. Reserves for contingencies hardly ever appear. All, however, set up a reserve for depreciation of equipment, but a reserve that is pitiably inadequate.

Many railroaders will smile at this statement. But let us see what are the consequences of insufficient reserves for depreciation of equipment. If there are serious consequences to an inadequate reserve that is recognized by the railroads, then there must be even more serious results from the complete

absence of other reserves generally accepted as proper by sound business.

Obviously, small reserves reduce the published expense account and thus increase the announced profits. That is pleasing to a speculator or to those interested in obtaining wage increases or rate reductions. The first direct effect, however, is the payment of more income taxes than would otherwise be paid. This means an outlay which is a definite cash loss to the stockholders. The second effect is to play into the hands of those who would claim that the roads are earning too much and that wage increases or rate reductions are in order. These low reserves have made an opening for greater pressure on the rate structure than would otherwise have existed, and have made the roads more vulnerable under demands for higher wages. The third effect is, by encouraging dividends, to reduce the amount of cash income available for investment in the property and thus lead to the issue of more securities. And finally, and of the most importance, through failure to write off inefficient equipment as promptly as necessary, low depreciation reserves lead to keeping in service cars and motive power that could be replaced with substantial reductions in operating costs. This seems to me to be unbusinesslike, backward, and contrary to the interests of creditors, stockholders or the public.

An engineering firm of high repute, after a study, has determined that it is uneconomical to rebuild freight cars from sixteen to eighteen years old. Locomotives over ten years old are far less efficient than new and are fast becoming obsolete. And yet the roads write off their cars and locomotives on the basis of a life of from twenty-five to thirty years and keep them in service that length of time. That is one reason why over half the locomotives in the country are over twenty years old, and while quite able to run, are inefficient and costly as compared to modern engines.

If any industrial concern reserved such inadequate sums for depreciation as do the railroads, and almost completely ignored other reserves, it would become insolvent and go out of business in a very short while.

Furthermore, these unbusinesslike low reserves are shortsighted in the public interest. The aim of the railroads and of the Interstate Commerce Commission must be to give the best

service at the lowest possible cost. This, we assume, is the goal of any public utility, or, in fact, of any farsighted enterprise. It can be attained only by the expenditure of money, looking toward cost reduction. The money can better be obtained by proper reserves in the income account than through the capital market. In other words, low transportation costs for the public will more surely and safely be secured in the end by rates now which will permit and encourage proper reserves, plus dividends to the stockholders, than by rates which are immediately low and make the reserves impossible. The American Telephone and Telegraph Company furnishes a fine example of how sound financial principles will lead ultimately to the best service at the lowest possible rates.

It will be said that the Interstate Commerce Commission recently set the rates for depreciation of equipment and that management is not responsible. That is true. But our railway managements have long been charging too little for depreciation and nothing for obsolescence or contingencies, and are far too complacent with the recent order of the Commission.

Let us turn now to a discussion of management. Two men of my acquaintance, each of whom attained eminence in his chosen field, have told me that if they had their lives to live over they would be railroad men. There is a fascination about railroading which attracts to the industry hard-hitting, two-fisted men. And no man can long survive the struggle and earn his way to the top who does not combine fine mental qualities with his fighting instincts.

These men, whom we call railroad men, have gone through a training which builds strong characters. They have been prepared at any hour of the day or night to contend with all kinds of weather, to meet emergencies of fifty-seven different varieties, and to carry a heavy burden of responsibility. They have done it, and have put the trains through. Anyone who would spend a few days with a division superintendent would come away with the distinct impression that here is a job which can be filled only by a man with physical stamina, courage, and a high degree of ingenuity.

This is the training which most, but not all, of our railway executives have had. Naturally, they too are hard-hitting men with high intellectual capacity. And the route over which

they have come to their present positions gives them a deserved pride in their organizations and makes them kings so far as their particular properties are concerned.

Any analysis of railroad management and its background must also take into consideration the fact that the railroads constitute, with few small exceptions, the only public utilities in this country which do not have territorial monopolies. Not only has competition naturally existed among the railroads, but it has been fostered by governmental policy. In other words, our executives received their training not only in competition with nature and the elements, but they have come to their present positions during a period when intensive competition with each other has been a part of the daily routine. It is useless to say that the railroads are no longer a monopoly, that they now have outsiders with whom to compete, and that they should coördinate their efforts against the common competitor. The fact remains that habit and training keep the railroads at each other, even though their lack of territorial monopoly, coupled with intensive regulation, makes coöperation between them more a necessity than in any other business.

Having become chief executives, these men find themselves directing their properties through a maze of unfavorable legislation, onerous regulation, and other handicaps. They are told what their revenues shall be, what wages they shall pay, how many cars their trains shall haul, and how many men shall man a train. They are overburdened with a variety of other hindering, tantalizing, maddening limitations on their efforts to operate successfully. Is it any wonder that their initiative has been deadened?

In spite of these things, subsidized competition, and a great depression, they have given this nation the best railroad system in the world. Surely this is proof enough of their capacity, and evidence of the inherent vitality of the industry. Yet our railroad friends are sometimes accused of doing less than they might have done to put the industry on a sound financial basis. Is this so? And if so, what is lacking?

It seems to me that the charge is a fair one. The shortsightedness of certain of the financial policies has been described. The lack of coöperation between the roads is evident to everyone, including the railroad men themselves. The com-

petition between the roads has probably had as much, if not more, unfavorable effect upon their net operating income than the competition of motors and waterways. And this intra-railroad competition is assuming more disastrous proportions today than it ever has. It consists largely of taking tonnage from each other, and then taking it back. No one gains any advantage, and all lose in such a stupid performance. Every executive can tell you what is wrong and what needs to be done, but too little has been done. Pride in their own organizations seems to prevent them from using the experience or advice of those outside the industry. There does not exist a planned program looking to the future of the railroads as a whole over a period of years. The railroads constitute the finest illustration in the world of the adage that "what is everyone's business is no one's business."

Now, why should this be so? The explanation lies, I think, in those very characteristics of our executives which have made it possible for them to give us such a perfectly operated transportation plant. These men have had fighting careers. Their background is essentially one of competition. The railroad problems of today are fundamentally economic and financial. The solution of these problems requires coöperation, tact, statesmanship, and broader business and financial training than most of our executives have had. The solution requires an ability to look at the situation as a whole rather than at the situation as it bears upon some one property. Those of us who complain of railroad management are the ones who have been stupid—not the railroad men—for it is expecting the impossible that they should suddenly revive the initiative so long repressed and immediately develop the compliant natures and coöperative thinking necessary to cope with the existing situation. Furthermore, the men who head our railroads are much too busy with the problems affecting their own particular systems to give the time that is required for attention to national problems.

Under the circumstances, what should these executives do? I am convinced that they should call to their councils a group of men with wide business and financial experience, and obtain their assistance in dealing with those problems which have to do with the economic and financial aspects of the railroad situation as a whole. Railroad men are beginning to see the necessity

for a closer look at the industry from the national point of view. When they obtain the coöperation of the type of men suggested, their problems will in some cases gradually disappear through the development of greater coöperation with each other, and other important national problems will be more quickly brought to a solution.

Some will surely say that because of increasing earnings the railroad problem is vanishing into thin air, and nothing needs now to be done. To brush aside trouble is an easy way to postpone the inevitable. That is the attitude which existed in the decade of the twenties. If the railroads, and those interested in the railroads, take the easy way and do not soon plan and work for their better economic and financial future, the next depression will topple over more and stronger roads than have fallen by the wayside since 1929.

Remarks by the Chairman

Mr. Eliot Wadsworth: Mr. Sturgis has given a very strong endorsement to the management of our railroads. In spite of all the difficulties outlined here, under which the railroads must operate, we certainly have the best railroad system in the world. Our next speaker was to have been Mr. Thomas I. Parkinson, President of the Equitable Life Assurance Society. Unfortunately, he has been called out of town and he has asked the General Counsel of the Equitable Life, Mr. Sterling Pierson, to speak in his place. It is a great pleasure to introduce Mr. Pierson. (Applause)

THE INVESTORS' INTEREST IN THE RAILROADS

STERLING PIERSON
Counsel, Equitable Life Assurance Society

WHEN one has stopped to consider who the investors in railroads really are, he must thereafter approach the discussion of this subject with some degree of humility. As a general rule, we tend to think of investors as falling within three large classes, namely, individuals, incorporated institutions, and estates; but upon more careful consideration we come to realize that the ultimate investor is always an individual: either a stockholder in a corporation, a depositor in a commercial or savings bank, the beneficiary of a trust or a policyholder of an insurance company. We also come to see how difficult it is to appraise the preëminent interest of such individuals, for the policyholders of our insurance companies are at the same time taxpayers, bank depositors and, in many cases, stockholders. As such, they are seldom aware of the interrelations of, and the conflicts between, their various interests. However that may be, they are the individuals who supplied the funds which have been invested in railroad securities by various agencies, acting on their behalf. Although they may not realize the fact, the financial side of the railroad problem affects them directly in many ways.

Strangely enough, the investors' interest was probably more clearly recognized four years ago than it is today. At that time because of a spectacular decline in the market value of railroad securities, and in railroad earnings, it was generally recognized that the financial position of the railroads was a matter of common concern. The invitation extended by various organizations interested in railroad securities to the gentlemen who were to become the members of the National Transportation Committee put this phase of the matter as follows:

> This situation touches every citizen. It affects directly the security of wage and employment of the 1,500,000 railway workers. It affects equally the many and important industries supplying railway equipment

and supplies. It touches the financial problem of local, State, and National government, to the support of which the railroads contribute over $300,000,000 annually in taxes. It has given rise to a severe decline in the value of the $19,500,000,000 of railroad obligations and shares, and has occasioned concern to institutions which hold such obligations among their assets, representing in part the savings of that thrifty portion of our population which is to be found among the policyholders of insurance companies and the depositors in savings banks. The relief that the present emergency has made it necessary to grant to the railroads is a drain on the Federal treasury, and any ultimate loss will constitute a burden on every taxpayer.

. . . .

We, the undersigned organizations, representing many of the interests concerned, believe that there is no more important present task than a thorough and satisfactory solution of the railroad problem, as an integral but the most urgent part of the entire transportation problem. We beg that you examine all phases of the problem and recommend a solution which, with due regard for the public interest, will ensure an opportunity for the railroads of this country to operate on a business basis, to the end that there may be a stabilization in employment of wage-earners and in the values of investments made in behalf of insurance policyholders and savings bank depositors, and a general enhancement of the prosperity of the country which to so great a degree depends upon the prosperity of the railroads and of the many lines of business which in turn depend upon them.

Furthermore, President Roosevelt said in his October 1932 speech at Salt Lake City:

Now there is no reason to disguise the fact that the railways as a whole are in serious difficulty. And when so large a part of the American people have a direct cash stake in the situation, I take it that our job is neither to howl about a calamity nor to gloss over the trouble, but patiently and carefully to get to the bottom of the situation, find out why the trouble exists, and try to plan for a removal of the basic causes of that trouble.

To that end he proposed

the preliminary development of a national transportation policy with the aid of legislative and administrative officials and representatives of all interests now deeply concerned with the welfare and service of railroads, including investors, labor, shippers and passengers.

Today, notwithstanding the fact that the market values of some railroad securities have risen, we stand just where we did four years ago, so far as any plan for removing the basic causes of the railroads' difficulties goes. If anything, there is

more uncertainty about the financial future of railroads than there was then, and because of this uncertainty I doubt that many of us, acting on behalf of the ultimate investors of whom I have spoken, are now ready to make long-term commitments in railroad securities, or that we shall be ready to do so until many of the existing uncertainties with regard to the future of railroads are disposed of. In this connection, I may add that we regard the task of eliminating the existing difficulties as primarily that of management, and not of the investors or of the government. We can lend the managers some support, but it rests with them to decide whether they wish to have further access to private funds, and, if so, to create the conditions which will be persuasive to the private lender.

For the present, I think it may fairly be said that, with few exceptions, the primary concern of investors in railroad securities is the administration of their existing investments, rather than taking on further commitments in this field.

As we survey the existing volume of railroad indebtedness in the light of what has taken place within the past few years, we are forcefully reminded of the necessity of keeping constantly in touch with changes in the services which railroads are rendering, and their accompanying effects on earning capacity. These are days when the needs of communities and institutions shift much more rapidly than in the past, and these changes are likely to be accompanied by significant variations in the earning capacities of the railroads which serve them. Accordingly, while it once may have been a respectable investment practice to buy a good bond maturing 75 or 100 years hence, and put it away in the vault until maturity, we know now that such a practice is apt to lead to difficulties for the investor.

By keeping close to the facts which underly statements of current earnings the individual investor can get some measure of protection in selling out before the adverse trend becomes generally apparent. But this does not solve the problem for investors in the aggregate or for the railroad which has issued the bonds. It has contracted an indebtedness, derived substantial benefit from its proceeds, and ought in good conscience to meet this indebtedness, notwithstanding the fact that the value of the property into which the proceeds of the indebtedness have gone may have diminished. Such an instance pre-

sents a general problem of railroad credit which we now see ought to have had more consideration by investors, railroads and regulatory authorities alike. It clearly suggests the desirability of the creation by debtor railroads of sinking funds for the retirement before maturity of at least a portion of their funded debt, or the application to the railroad funded debt generally of the serial maturity principle commonly accepted in the equipment trust field.

The experience of the last few years, likewise, points us to more studied consideration of the relationship of cyclical fluctuations to our investments. The forces responsible for cyclical fluctuations may be counted upon to assert themselves in the future as in the past, and presumably with greater intensity in view of the progressive increase in society's dependence upon capitalistic methods of production. Investors, and especially those who are charged with the responsibility of protecting the investor, must hereafter evaluate conditions with greater emphasis upon the prospect of continued cyclical changes. The incurrence of debt cannot be sanctioned solely on the basis of conditions characterized by plentiful earnings at, or near, the crest of a cyclical upswing. Capital expenditures can be justified only on the basis of earnings in the long run, and mortgages upon such property retain an investment character only so long as earning capacity is sustained and protected against such hazards as extreme optimism resulting in excessive declarations of dividends.

We come now to the extremely difficult problem of administering the investment in securities of railroads in bankruptcy or receivership proceedings. The magnitude of this problem was brought out only yesterday by Commissioner Mahaffie, who stated that 26.5 per cent of the total mileage of American railroads, and 22.4 per cent of the total capitalization, are now in receivership or undergoing reorganization under section 77 of the Federal Bankruptcy Act. This section, which was originally put forward for the ostensible purpose of expediting reorganizations and simplifying their administration, seems to have accomplished neither of these objectives. On the contrary it has thus far operated in such an unsatisfactory way as to constitute a real source of concern to investors who are interested in expediting the reorganization of railroads in trouble.

There are several reasons for this. In the first place the section, both in its original and amended form, contains a number of ambiguous provisions which have been and probably will be the source of extensive litigation. I have in mind, for example, such provisions as that contained in section 77 (b) (4) which requires that a plan "shall provide for fixed charges . . . in such amount that, after due consideration of the probable prospective earnings of the property in light of its earnings experience and all other relevant facts, there shall be adequate coverage of such fixed charges by the probable earnings available for the payments thereof." Second, it has had the effect of requiring debtor railroads to produce plans of reorganization which would obviously not merit the serious consideration, let alone the approval, of any substantial part of the security holders. Third, by giving to the Interstate Commerce Commission such broad powers to deal with reorganization plans, it has put creditors in the frame of mind of trying to guess at the probable requirements to be applied by the Commission in determining whether to approve a plan of reorganization. Consequently, much time that might profitably be spent in trying to arrive at a basis of reorganization, which will be acceptable to substantial groups of creditors, is spent in debating such points as whether the Commission will or will not favor the issuance of fixed interest obligations in a particular instance; whether it will sanction income bonds or will require preferred stock; whether it will or will not sanction cumulative features, and, if so, what kind; what, if any, sinking fund features it will require, etc., etc. Meanwhile, although the Commission through its examiners has been holding hearings on various plans of readjustment, no clear-cut precedents have yet been developed as to what tests will be applied to a proposed plan in determining whether it shall have the Commission's approval.

This is an unhealthy situation. As Commissioner Eastman long ago pointed out: "The bankers and lawyers and security holders by whom reorganization plans are evolved ought fairly to have, in the process of their bargain and trade, some guide as to what we will or will not approve."

Without expressing any opinion as to the soundness of the general framework provided for under section 77 of the Bankruptcy Act, the time appears to have come to raise the question

whether, if reorganization plans proposed under that framework are to be scrutinized by some independent body before being submitted to the court having jurisdiction of the reorganization proceeding, it would not be better to create some quasi-judicial body other than the Commission to perform this duty. If the problem of reorganization under section 77 is as tremendous as it is generally conceded to be, it would seem that it might well be made the concern of some quasi-judicial body which could devote its entire time to the consideration of the problem.

Irrespective of whether this is done, however, it seems that the creditors are going to face a difficult problem in establishing to the satisfaction of any body the justification for their claims in reorganization proceedings. Already circulation is being given to the idea that the creditors are what one of my academic friends recently referred to as the "meanies" in the reorganization proceedings, because they have thus far turned up in opposition to the plans proposed by the equity holders, plans which for the most part propose to exact sacrifices from senior security holders, while substantially preserving the position of the equity holders. Before any such general condemnation is visited upon the heads of the creditors it would be well to recognize the difference in the position of the bondholder and the equity owner prior to bankruptcy. The former chose a limited return in exchange for what he regarded as a more secure position in event hard times should come knocking at the door. The latter assumed a junior position, in order to obtain what in most instances was the very real privilege of enjoying a rate of return substantially beyond that received by the bondholder. Perhaps if the bondholder could be made whole for this relative difference in return during the fat years, he would be more willing to consider sharing sacrifices in lean years. Beyond this it should be recognized that the claims of some classes of creditors are based upon something more fundamental than this idea of relative equity in rate of return. Here I have in mind particularly the life insurance companies.

The life insurance companies do not differ from the railroad companies in having to meet fixed charges. Under the terms of the contracts with their policyholders, they guarantee over

long periods to create reserves with which to meet future claims. These so-called reserves differ from the reserves of commercial enterprises in that their amounts are determined by law and are based on a fixed rate of interest specified in the contract of insurance. Each year the value of a life insurance policy increases by this interest increment. The aggregate of these items for all the outstanding policies becomes the fixed charge of the life insurance company. We thus see that a most important requirement of the life insurance company's investment is stability of income. For this reason, it is essential that our investment portfolios consist as largely as possible of securities which either produce a steady rate of return or obligate the debtor to compensate us for any temporary lack of return by payments made out of greater earnings in subsequent years. Accordingly we cannot cheerfully acquiesce in the suggestion that all interest on income bonds issued in reorganizations be made noncumulative.

Another problem which is one of our concerns is that of management. We are interested in management, but we have no desire to become the managers of railroads. Our interest in the problem of management is sharpened by the fact that as we look back over the years we come to see that very often the statistics upon which we relied reflected the activity and enthusiasm of a man or group of men, rather than a basic condition in a particular territory. Accordingly we have come to realize that no matter how good the economic conditions in a region served by a railroad may be, the results obtained on that road can always be made better if it is operated by men who bring to the job experience, energy and enthusiasm. This viewpoint is emphasized, too, by our relations with the railroads in trouble. It is a most disheartening experience to have to deal with managements which, while cash is low, assure you that their hearts bleed for the creditors, and that their roads are adequately maintained, so that if gross revenues increase they will undoubtedly be able to pay something, only to find that just as soon as gross revenues and available cash increase, those same managements come forward with programs for extensive improvements, which are then described as absolutely essential. Such a situation can easily provoke an investor to the point of thinking that, if his interests are to be protected, he

ought to become an operator. Notwithstanding such provocations, we have wisely, I think, refrained from trying to assume any such position.

In conclusion, it may be said that the investor is today more keenly aware, than he was a few years ago, of how many problems are involved in the railroad situation. He realizes his inability to jump in and solve them all by himself. He sees that the situation calls for greater coöperation than ever before between all of those who have a stake in the present and future of railroads. He would like to continue to have an interest in railroads, but whether he will feel it possible to do so depends upon the creation of a more satisfactory condition in the railroad industry generally than is now apparent.

Remarks by the Chairman

Mr. Eliot Wadsworth: I am sure we appreciate very much this discussion of the attitude of the investor who, after all, was the founder of our railroad system over a long period of years. We now have just a half hour left of this meeting, according to the schedule laid down by the Committee, for brief remarks under the ten-minute rule. I am going to ask Dr. Carson S. Duncan, who has had wide experience both here and abroad in the railroad field, and who is now the economist of the Association of American Railroads, to give us his opinion of the papers presented at this session. Dr. Duncan! (Applause)

DISCUSSION: THE RAILROAD SITUATION CRITICALLY ANALYZED

DR. CARSON S. DUNCAN
Economist, Association of American Railroads

THERE is no reason why I should know more about these papers than any one of you, for those who read them refrained from having advance copy available. Therefore, I can only comment upon certain points which particularly interested me as I listened to the speakers.

Concerning the first paper, may I say that the fundamental question certainly is: How far shall we permit laissez faire to control our attitude toward transportation management? If we turn the clock back to 1906, as was proposed, we shall have to repeal many legislative enactments, all of which were originally proposed in the name of public interest. Each one, therefore, should be tested, on the basis of our experience, to determine whether its continued enforcement is in the public interest.

The rate controversy is a perennial one. There is no formula by which a just and reasonable rate can be determined in every case. Questions arise concerning individual rates, combinations of rates, and general rate levels, but none of these questions can be answered unless we know whether the sum total of rates applied to the traffic volume will result in an income sufficient to support the transportation agency. That is about as far as we can go.

I think that we can all agree that wages should be fair. We can also agree that there should be an adequate return in service for a fair wage, and that there should be no disruption of essential transportation service because of disputes over wages. But who shall determine what constitutes a fair wage? How can it be determined so that both parties, the payer of the wage and the receiver of the wage, will accept the verdict?

Certainly, I am convinced that there is valid objection to making one agency of transportation an experimental labora-

tory for social reform, so long as its competitors are exempt from such experimentation.

With the views set forth in the paper on competition, I am in substantial agreement. Competition, of course, means a duplication of facility. What has been called the " public attitude " during recent years may be summarized very briefly: the greater the competition in the transportation field, the more reasonable the rate. And yet, competition, if unrestrained, will inevitably lead to too many facilities.

The suggestion has been made that there should be coördination which, as was explained this morning, means that all agencies of transportation should work together for a common cause. If coördination is not properly guided, however, it will lead to monopoly, which the public will not tolerate. Therefore, as I see it, what is needed is a combination of competition, without wasteful duplication, and coördination, which stops short of monopoly.

I am convinced that regulation might achieve fair competition within a given transportation agency, if the terms of regulation are just. The difficulty, however, is that competition from outside will remain unfair and unjust until regulation is applied so that it reaches down to the right of way—what I call the grass roots—of every agency.

There is much to be said, in my judgment, in favor of the accumulation of adequate reserves by the railroads, but, obviously, in these lean years the time is not right for such a policy. I have frequently suggested that the railroads came too early. Management had not yet conceived that ingenious idea which was later applied to our public utilities, whereby the telephone company, for example, fixes a minimum rental, while the phone is disconnected during the subscriber's summer vacation. With gas and electricity the same "standby charge" is used. If the railroads had come at a time when such a charge could have been made, they would have had a basis for reserves. They came some years too early.

I want to say only a word with respect to another feature. I hope that this great Academy will at some future meeting permit some railroad executives to speak of the problems they see in the financial management of other industries, and then we will get both sides of the picture. (Applause)

What is the investor's interest in the railroads? Of course, as an individual, or as an institution, the investor is interested in security and a fair return. I assume, therefore, that institutional investors, whether banks, insurance companies, schools or other institutions, will have in their portfolios, side by side, railroad bonds, and bonds issued by states, cities and counties, and that some of those government bond issues will represent the construction of highways paralleling and competing with the railroads.

In 1932 there were over one and a quarter billion dollars' worth of state highway bonds outstanding. In 1931 more than one and three-quarters billion dollars were invested in county and bridge bonds, and in 1932 there were over one and a half billion dollars' worth of city street bonds outstanding, a total of more than four and a half billions of dollars.

The investor in an individual security of a railroad is interested in its earning power. The investor in a government bond is interested in the taxing power of that government unit. Therefore, behind this financial problem, as the situation is today, stands the competition between private credit and government credit, and it is my contention that private credit, for fixed investment in the highway, has been dead since the last toll road, and for investment in waterways, has been dead since 1882, when the last toll was removed.

PART III

TRANSPORTATION PROBLEMS AND SUGGESTIONS TOWARD A CONSTRUCTIVE SOLUTION

INTRODUCTION

THOMAS W. LAMONT
Of J. P. Morgan & Co., *Presiding*

FIRST of all, I want to say one word in tribute to the memory of the late George A. Plimpton. From the foundation of this Academy, and till the time of his death, he was the treasurer of this Academy, one of the leading citizens of this city, a noble man, without whose coöperation the upbuilding of the Academy could never have attained its present level.

Next, I want to express the thanks of the Academy to these distinguished men on either side of me, who throughout the morning and afternoon sessions today have given us of their effort in the fine papers which they have presented. They have left their offices, they have left their professorships, they have left their several callings, and have brought to us new light on this problem of railroad transportation in America.

Third, if you please, I should like to take you into my confidence, and to explain that shortly before the election, the "High Command" of the Academy asked me to throw a light note into the proceedings of the dinner. They explained that the dinner would fall very shortly after the election, and that they feared that a number of those present might be feeling a sense of gloom. As a matter of fact, I have never faced, it seems to me, a less gloomy audience. The reason is that we are all agreed, as I think, that we have every confidence in the sobriety, industry and common sense of the American people and in the destiny of this country. (Applause)

Now, Mr. Eastman, I don't know whether or not in Washington they ask you to throw a light touch into your deliberations, but I can assure you that it is a disconcerting request. It reminds me of a recent experience in London, where I attended a banquet of considerable size. They had been kind enough to give me a seat on the dais, and toward the end of the speech-making, the chairman arose and said, "We wanted to call on our American guest for a speech tonight, but we didn't give him time for preparation, so, all we will ask you to do, Mr. Lamont, is to arise and tell us a droll story." (Laughter)

Perhaps I may be permitted now to drop back into the slow and stodgy talk that bankers are famous for the world over, and, if I may, I should like to allude to three forms of transportation which I utilized in a recent trip to South Africa. That is a land of great beauty and great delight, full of thrilling experiences, a land that reminded me much of the America of years ago in its earlier days. As you approach Capetown, eighty miles at sea, you see Table Mountain looming up, and then you come into the beautiful harbor and take that Blue Train northward to the Transvaal. Before doing that we motored over the lofty mountains which almost completely surround Capetown, with the Indian Ocean on one side and the Atlantic Ocean on the other. Going over one of those high mountains I was impressed by the excellence of the engineering. The road had taken advantage of every possible slope and contour of the mountain. It was beautifully done, and I turned to my host, who was driving me, and said, "Who were the engineers of this highway?" His reply was: "This is the old elephant trail. We simply took the elephant trail that dated back a thousand years and enlarged it into the highway." Well, we have no elephants here, but to our American railway engineers I can commend the elephants in their wisdom as wonderfully equipped for finding the best way over difficult mountain passes!

We took that Blue Train, not like the Blue Train that goes from Calais to the Riviera, but still very comfortable indeed, and landed in Johannesburg, where our host, General Smuts, met us. Up to that point, the railroad transportation had been excellent, but from that point on the schedules were very slow. I found that we should not have a chance to view the beautiful

Victoria Falls of the Zambesi unless we hastened on our way. So I succeeded finally in chartering a large airplane and invited General Smuts and his family to accompany us on that two-thousand-mile trip to the Victoria Falls and back.

I had a little misgiving, to tell the truth, about flying in South Africa. I had not flown in America. It seemed curious to start my career in a strange land, so I asked a business friend in Johannesburg to be good enough to check up behind the scenes and ask about the safety devices, landing places, and so on. He called the manager of the airways and said, "You know you have quite a valuable cargo, both General Smuts, member of the Cabinet, and his family, and the Lamont party. We want to be sure that there is no danger." Whereat the manager indignantly retorted: "Danger! Danger! Do you think we would risk a £20,000 airplane if there were any danger?" (Laughter)

So we went to Rhodesia, a land named after that great man, Cecil Rhodes, who, despite all his faults and mistakes, had a great spirit that still broods over South Africa. We can picture him in his dying moments, as he sat in that house of his on the slopes of Table Mountain, overlooking the Indian Ocean on the one side and the Atlantic Ocean on the other, saying with almost his last breath: "How little done, how much left to do!"

Thus we tested transportation by rail and by airplane. The third form was by motor car, when General Smuts took us to the Kruger National Park where all the wild animals of Noah's Ark roam in their native habitat. The trip was a unique experience! Perhaps the most interesting and thrilling part of it was at night, after the Kaffir boys had finished cooking our supper in their very excellent way, when we would sit down by the campfire under those southern constellations, with the lions roaring outside the stockade and the hyenas snarling under the river bank. Then General Smuts would talk to us of war and peace, of art and love, of botany and anthropology and geology, and everything that was interesting in the world. He was a man of great spiritual force, who had performed great deeds for his country and for the British Empire. He was one of those who believe that even if right be worsted, wrong will not triumph. In the present condition that confronts

the world, he felt and said that though fear and hatred seemed to be enthroned on many of the high seats of the mighty, nevertheless, good will and coöperation would finally prevail and right would come into its own.

Our first speaker this evening is Mr. Joseph Eastman, a graduate of Amherst College, which has mothered so many brilliant sons, among others, George A. Plimpton, whose lamented death we have noted, Calvin Coolidge and Dwight Morrow. It was through my friend and partner, Dwight Morrow, that I first heard of Mr. Eastman, and was first drawn to notice the qualities that have brought him so far. Some years after his graduation Mr. Eastman became a member of the Public Service Commission of Massachusetts, where he had a notable career. Later he was called to Washington, and became there a leading member of the Interstate Commerce Commission. There has been no man more indefatigable in his efforts to solve the complex railway problem than Mr. Eastman, no man who has worked so hard or has shown quite so much ingenuity as he has in gathering the masses of facts that have to do with the administration of his office, no man who in the office of Coördinator—and I must voice the feeling of a great many, Mr. Eastman, when I say that we are very sorry that the office lapsed—could possibly have accomplished as much as he did, crippled though he was in so many different directions by laws that were rather narrow, and by labor problems that were insoluble at the time.

We appreciate very much his willingness to speak to us this evening, and we give our most cordial greeting to Mr. Joseph Eastman of the Interstate Commerce Commission. (Applause)

TRANSPORTATION PROBLEMS AND SUGGESTIONS TOWARD A CONSTRUCTIVE SOLUTION

JOSEPH B. EASTMAN
Member of the Interstate Commerce Commission
Former Federal Coördinator of Transportation

THE subject which I have been asked to discuss is rather appalling. " Transportation problems " cover an enormous territory. For instance, I have a profound conviction that human legs are not used as a means of transportation to the extent that they should be, and at the other end of the scale scientists are now actively working on transportation to the moon. For these problems I am to suggest a " constructive solution ". I confess that I have come to dislike the word " constructive ". It has become the accepted means of answering criticism, when all other means fail. The critic is " destructive " and not " constructive ". Yet long ago it was discovered in the Ten Commandments that the best solution for many human problems is purely " destructive ". In short, cease and desist. (Laughter)

The fact is, also, that for many of our problems there is no real " solution ", and transportation is no exception. Conditions will not stay put long enough to give the remedy a chance. The problem is continually shifting and changing form. It is like trying to solve the weather. Nevertheless it is right to work on these problems. We may not solve them, but we can at least do something to curb abuses, promote healthy growth, and keep change moving in what we deem to be the right, instead of the wrong, direction.

The magnitude—perhaps " enormity " is the word—of the subject is alleviated by the fact that my knowledge of it is limited. I speak from the point of view of a government official, neither blessed nor afflicted by private enterprise and initiative, who has lived at the expense of the taxpayers for a long time and has been trained in the school of regimentation. You can take what I say accordingly. (Laughter) I should

say, also, that I speak for myself. I am not undertaking to voice the opinions of the Interstate Commerce Commission, or of any member of that body except myself. Furthermore, in the course of my remarks I shall have occasion to make various categorical statements which lack of time will not permit me to support. However, I stand ready and willing to provide the necessary support, whenever occasion may require.

Of course the government always has been a great factor in transportation, and properly so, for the well-being of the community is wedded to transportation. Our Supreme Court indeed has said that railroad companies perform a "function of the State". Although the actual carriage has been left to private enterprise, public funds in tremendous amount have gone into transportation facilities, including the vast system of streets, roads and highways; canals, waterways and harbors; airports and airways; urban subways; and even ships and railroads. The total runs into many billions of dollars. In the early days many of the railroads could not have been built without public aid. Our wonderful system of highway automotive transportation was made possible by the great governmental expenditures on public roads. Much the same is true of a large part of our water carriage. Our system of airways, which is developing so splendidly, was initiated by the federal government and is still dependent on public aid. At the last session of Congress an act was passed providing for a system of public subsidies to build up our merchant marine.

We owe a great deal to private enterprise and initiative in the development of the transportation which we now enjoy, but I suggest that we owe a great deal to public enterprise and initiative as well. The wish is often expressed that the government would keep its hands off business, but in the transportation business no one really wants that wish to come true, at least not when the hands are loaded with funds. During the recent depression, it was public funds which kept many railroads out of receivership and bankruptcy, and which enabled many to carry on with construction and maintenance work. Most, I think, of the new stream-lined or electrified passenger trains would not now be running, if it had not been for the timely aid of public credit.

But, as you know, the government does not stop with financial aid to transportation but undertakes to do, as well, some regulating. We did not start off that way, and it is important to understand how it came about. In the early days, the idea was to encourage the building of as many railroads as possible and depend upon competition to do the regulating. The men who ran the railroads were typical American entrepreneurs. There were a few men of genius, many of excellent capacity and force, some with public spirit and principle, others not strongly characterized by these qualities, and a substantial percentage of poisonous rascals. It was quite common to regard government as a necessary evil, to be brought under suitable control, the end justifying the means.

It was found that this system did not work over well, and it brought trouble both to the railroads and to the public. The states began to try regulation and eventually, fifty years ago, the federal government created the Interstate Commerce Commission. Perhaps the greatest trouble was that uncontrolled competition worked very unevenly. The major benefits went to the big communities and shippers that had the most traffic to offer; lesser communities got lesser benefits; and the little communities, unfortunate enough to have no competition, got what the railroads called " normal rates ". It was the day of rebates and all manner of special rates and concessions, continually changing, and no man knew what his competitor was paying. At the same time the railroads were cutting their own financial throats in the process.

The first evil which the government undertook to eradicate, therefore, was the evil of unjust discrimination, and incidentally the evil of exorbitant charges to those not favored with competition. While the primary purpose was protection of the shippers, a secondary effect was protection of the railroads. As time went on, other abuses were attacked. It was found that competition and the financial necessities of weak roads, coupled with some unscrupulous managements, made it difficult to secure the uniform introduction of air brakes, automatic couplers, and like safety devices. The strong hand of the government was used to bring this about. It was found that many unnecessary roads had been and were being built, to the damage of all; that constantly recurring car shortages could or

would not be cured without government help; that it was a too common practice to extract profits through financial exploitation, instead of operation, and that government control was needed to protect both investors and the general public from the resulting damage; that the laws designed to preserve competition to the last degree ought to be relaxed, but in favor of supervision over the process of unification.

This is by no means an all-inclusive summary, but it indicates how the system of public regulation gradually expanded, not arbitrarily, but because of known evils and at the behest of public opinion. At first the railroads resisted this expansion, but it is a matter of much interest to me that when the culmination was reached in the Transportation Act, 1920, it had, on the whole, the support of the railroads and the financial interests of the country. If you think that the culmination was not reached until 1933, in the Emergency Railroad Transportation Act, you should remember that that Act was conceived by a group of investors in railroads and received the support of the railroad managements, at least until the labor amendments were added. It is of equal interest that a stronger demand for federal regulation of motor carriers, provided for in 1935, came from the railroads and even the motor carriers themselves than from the public served.

Until 1920, or thereabouts, the railroads dominated the transportation scene, and transportation problems were very largely railroad problems. But the scene has shifted, and very greatly. You know of the extraordinary development of competing forms of transportation, by highway, by water, by air, and underneath the ground, a development which is continuing with accelerating rapidity. It has changed our transportation problems, in important respects, very radically, and we have all had to stop and take note.

In my judgment there is something, by way of a "constructive solution", for the carriers to do, and also something for the government to do. Perhaps I ought to speak only of the part to be played by the government, but with apologies to Mr. Bledsoe I shall say a word about the carriers' part too. Let me get that off my mind first.

In view of the great growth of competition and the frequent oversupply of facilities, the market for transportation has be-

come distinctly a buyers' market. There has in the past been a tendency, I am afraid, to regard it as a sellers' market, in which those served had to take what was offered at whatever price was set, and this tendency was strengthened by public regulation. Until very recently, many apparently believed that the only thing which set a limit to railroad earnings was the Interstate Commerce Commission. This was particularly true of investors and in the New York financial district. It was not true in general of the active managers of business enterprises, or even of many of the railroad officials who were in closest touch with the service. The latter were at times impelled, I think, by the sentiment emanating from above to act contrary to their better judgment.

Discussion centered around the Commission, on the theory that all railroad ills could be cured if only the prices for their services were made sufficiently high. The Commission was the devil that stood in the way. It was not even appreciated, until long after 1920, that the unforeseen factor which was eating into earnings was the rapidly progressing slaughter of the passenger traffic by the automobile and the more gradual invasion of the freight field by the truck. The Commission itself was slow to recognize the facts.

As matters now stand, and are likely to stand for some time to come, the railroads and the other carriers are more nearly in the situation of ordinary competitive business. They must cater to the consumer, study his needs and wishes, and try to give him the service which he wants at the price which he is willing to pay. Success will go to those who can create new traffic by giving continually better service at lower prices. The fact is that there is no fixed amount of transportation to be performed, but instead an amount whose limits are dependent only on the facilities afforded and the price of service. The practical problem for the carriers is to tap the huge reservoirs of potential traffic and swell the volume of their business.

It is no more than all business must do, if we are to solve the problem of unemployment. The hope of averting disaster, as science marches on in the creation of labor-saving mechanisms, lies in using them to reduce costs and prices in the way which will greatly expand the consuming market. In no other way can the ability to consume keep pace with the ability to pro-

duce. If labor-saving mechanisms cannot be so used to increase consumption, they might better be thrown on the scrap-heap at the outset.

The task for the railroads and the other carriers, therefore, is to fit their service and their prices to the needs, desires and purses of their present and potential patrons. They must be eternally on the alert to improve operation, service, equipment and rates, take advantage of everything that modern science has to offer, and cut waste out by the roots.

For three years it was my duty, as Federal Coördinator of Transportation, to examine into the operations of the railroads, with particular reference to waste. My efforts were not wholly appreciated by the executives or by the employees, but I know they were conscientious, and I think they were useful. Of three things I am certain. One is that railroad service, equipment and rates have not, in many respects, been well adjusted to the new conditions, and that there are large opportunities for gains in traffic and revenue, as and when they can be better adjusted. Another is that each type of carrier can do certain things better than the others, so that in many situations they can be used to great advantage to complement or supplement each other. The third is that the railroad industry, as now organized and conducted, does many things uneconomically and wastefully, because of the great number of separate companies and their frequent failure to work together where their real interests are not in conflict.

My thought has been that the industry should be organized much like the United States, so that the larger matters of common concern could be dealt with by centralized and concentrated effort, leaving the individual managements a free hand with local matters; and also that the federal government could lend valuable aid in promoting such coördination. The Association of American Railroads reflects a somewhat similar thought, with the federal aid left out. There are others who believe that the results desired can be had only by concentrating railroad properties into a very few hands, through consolidation or union in some other form. I doubt that this can be done without compulsion by the government, and whether its power should or will be so used. However, those who are persuaded that this is the only practicable plan should not hide their light

under a bushel, but come out into the open with concrete proposals.

Let me add a word or two of caution. The carriers must know and give heed to the costs of their services. It will not do to slash rates regardless of costs to meet competition, on the old theory that somewhere and somehow other traffic can be made to carry the load. The idea that it is good business to take competitive traffic at a margin over so-called out-of-pocket expense is dangerous and delusive, if extended beyond narrow limits. Various reductions in rates are much to be desired, but the vital thing is to get costs which will justify the reductions.

The best hope that employees can have for a transportation system that will continually employ more men lies in one which will, through better service and lower costs and prices, continually build up the volume of business. It does not lie in artificial means of making more work which will add to costs, stand in the way of better service and lower prices, and stifle traffic. Make-work schemes will in the end be suicidal for the employees themselves.

Investors, particularly in bankrupt properties, should bear in mind that good credit is essential to railroad success. They have more to hope from a reorganized property which can face the future with good credit prospects than from one which gives greater paper recognition to their claims at the cost of a sound financial structure.

So much for the carriers. What are the things which the government should do? I have shown you how and why public regulation of the railroads developed. Similar reasons now exist for regulating all of the carriers. The extraordinary growth of competing forms of transportation brought with it the old, familiar evils. There were the same cut-throat competition, the same instability and uncertainty of rates, the same secret discriminations, the same threat to responsible operators from those who were unprincipled and irresponsible, the same difficulty in protecting working conditions and the public safety, and the same tendency to multiply new operations beyond any public need to the damage of all. Looking ahead, there was the same danger of financial exploitation as larger systems were put together capable of issuing securities which could be sold to the public.

A good start in rounding out the system of public regulation was made in the Motor Carrier Act, 1935, and I hope that the same thing can be done for the water carriers and the air carriers. Many of them recognize the need. Plainly, also, the way to secure equal, impartial and well-coördinated regulation of each type of carrier is to give a single commission the same duties and responsibilities with respect to them all.

This brings up one of the difficulties and defects of public regulation. It is a cumbersome, time-consuming process, often exasperating in its delays and in the expense of its procedure. The carriers and their lawyers are in part responsible, because they seize every opportunity to secure a court review of adverse decisions. The commissions must protect themselves against such appeals by careful judicial procedure, the making of full and open records, the writing of detailed and explicit opinions, and the avoidance of anything that savors of arbitrary action. This lesson has been learned by harsh experience.

Nevertheless, procedure can be improved, and one of the essentials is the best possible organization and system of administration. If the Interstate Commerce Commission is given duties and responsibilities with respect to all types of carriers, this will become a matter of much moment. My belief is that the Commission will have to be reorganized to do the job right, and I have proposed a definite plan. My plan may not be the best, yet I am confident that some plan will be necessary.

It is often said that the railroads are hog-tied by regulation and deprived of initiative in management. This is far from the fact, but I agree that regulation should be held to the minimum which the public interest requires. If the railroads, or anyone else, can show that some of the present regulation serves no useful purpose and is an unnecessary nuisance, it ought to be abandoned. This afternoon I heard Judge Fletcher discuss two features of the Transportation Act, 1920, the consolidation plan and the recapture clause, which he condemned rather strongly. Neither one of them came from the Commission. I think that they came from the investors. The Commission recommended the repeal of the recapture clause, and it was repealed in 1933. It also recommended repeal of the consolidation plan provisions, but without success. When I was Coördinator, I asked the railroads for a specific showing

as to unnecessary regulation, but what I got was not impressive. Their requests for relief were surprisingly few. Now they are seeking freedom from the qualified prohibition against charging more for a shorter than for a longer haul over the same line or route. I think that what they ask would be a reversion to the jungle, but such concrete issues are to be welcomed in contrast with the usual generalities about the hardships of regulation without specific proposals for their alleviation. Doubtless, there are instances where regulation should be eliminated or modified. Let us have the specific proposals.

The great problem which public regulation faces arises out of the competition between the different types of carriers. Each has its points of superiority and inferiority. If a single management were in charge of all transportation, it would use the various means according to their economic merits. I am satisfied that the country does not want any single management, and that it wishes reasonable competition to be preserved. The government must see to it that competition does not take on unfair and destructive forms, and that the operations of the various types of carriers are combined and coördinated where that will serve the public interest best. No one save the government can do this.

Modern science is developing means of transportation so fast, and the government has so great a stake in transportation, even financially, that it should, I believe, deal with transportation problems in still another way, in addition to the present system of regulation. The Interstate Commerce Commission is distinctively a tribunal, set up to deal with controversies and specific matters, and its time is fully occupied by this quasi-judicial and administrative work. There is need for a department, not so engrossed, which can keep in close touch with the transportation situation, watch developments, study the larger problems, foresee dangers which are impending, promote the cause of coördination, and advise both the President and the Congress in regard to transportation policies. Many countries, notably Great Britain, have a Ministry of Transport which functions in this way and also performs strictly administrative duties with respect to transportation which are scattered in our own government among a large number of bureaus. The

establishment of such a Department of Transportation here is worthy of consideration. My own inclination is to prefer a nonpolitical, independent agency, associated with the Commission. However it may be worked out, the general idea has, I believe, much merit.

You may be anticipating, in view of my past record, a word on public ownership and operation. I hope to see the time when that subject can be discussed as the purely practical question which it is. Railroads perform a public function, as the Supreme Court has stated, and we would not be embarking on Communism if our government took over that function directly, as many other countries have done, instead of entrusting it to private enterprise. It is only a question of the practical way to get the best results. After many years' experience in government service and opportunity to observe some large branches of private enterprise rather closely, I do not doubt the practicability of running the railroads as a government enterprise under men of excellent character and capacity and without political corruption. There would be danger of ill-advised legislation affecting the enterprise, but no more so than now. The divided responsibility and cumbersome character of the system of private ownership and management combined with public regulation have inclined me toward direct public ownership and operation with responsibility concentrated in the government.

The staggering difficulties of taking the properties over on terms fair to both the private owners and the government and the fact that the railroads are now only one of the important means of transportation are complicating factors which justify doubt as to the wisdom of public ownership and operation under present conditions. I am not now urging it. It is not impossible, however, that the time may come, as it has come in other countries, when the system of private ownership and management will break down for reasons beyond control. It is not unwise to give some thought to that possibility, at least to the extent of considering the best possible plan for public ownership and operation, if it should become necessary.

Let me say in closing that I feel that the carriers—all of them, railroads, motor carriers, water carriers and air carriers—are now showing a general disposition to grapple boldly with

their problems with commendable zeal and enterprise. The free advice which I have volunteered in these remarks has been tendered in no critical spirit. We are all working for a "constructive solution" of transportation problems, and I have only been offering a contribution to that end for what it may be worth.

Remarks by the Chairman

Mr. Thomas W. Lamont: Thank you, Mr. Eastman. I am sure that we have all noted with satisfaction that the representative of the Interstate Commerce Commission has a sense of humor and a sense of proportion. I wonder whether those qualities in public office do not transcend in importance many other qualities. Fortunately Mr. Eastman also possesses the others in great abundance.

As our second speaker, I am going to introduce to you Mr. Samuel T. Bledsoe, the head of the great Atchison, Topeka and Santa Fe Railroad.

I do not know whether the Santa Fe was built by the entrepreneurs to whom Mr. Eastman has referred, but if it was, they did a good job eventually. It covers a vast territory, traversing thirteen states, and upon Mr. Bledsoe's shoulders rests a great responsibility, which he has discharged with consummate skill. He is a native of Kentucky, and he knows the whole region of the Mississippi Valley, and the Southwest, through his early experiences there as a lawyer and his later career as a railroad official. He has long been prominent in the councils of the railway executives. There is no more welcome figure in New York than that of Samuel T. Bledsoe, whom I have the pleasure of presenting to you. (Applause)

CONSOLIDATION AND COÖRDINATION PROBLEMS

SAMUEL T. BLEDSOE

President, The Atchison, Topeka and Santa Fe Railway Company

I HAVE selected for discussion certain problems arising in connection with consolidation and coördination of railroads, and particularly those relating to coördination of railroad terminals.

Coördination of railway properties and facilities commenced almost with the beginning of railroad construction. The elimination of different gauges and the adoption of standard gauge for tracks represented coördination. The establishment of every one of the many thousands of freight and passenger stations, which serve more than one railroad, was an act of coördination. The great railroad systems of the country, without exception, were created through the coördination of a large number of small, independent railroads. Coördination historically has been the fruit of the business judgment of railroad management. In many respects it has been accomplished with the aid, but seldom under the pressure, of public authority. In fact, in many respects it was impeded by restrictive statutes of the states and by federal statutes relating to trusts and monopolies.

During the period of federal control there arose a theory that the railroads of the nation should be consolidated into a limited number of great systems. As a result Congress, by the Transportation Act of 1920, required the Interstate Commerce Commission to plan such systems and to allot all railroads to them. To facilitate the preparation of a tentative consolidation plan, the Commission employed Professor William Z. Ripley of Harvard to prepare and submit to it a suggested grouping of the railroads, and caused his report to be published, with some modifications, as a tentative plan for the consolidation of all the railroads (63 I.C.C. 455). The comments of the several members of the Commission indicated clearly that the tentative plan was submitted only as a basis on which to make a full

record upon which a final plan could rest, without prejudgment of any matter which might be presented in that record.

Hearings on this plan were completed December 4, 1923. The record consisted of almost twelve thousand pages of testimony, much of which was conflicting. The Commission found the difficulties involved so great that instead of proposing a final consolidation plan it recommended to Congress in 1925 that it be relieved of the duty to prepare such a plan. It repeated the recommendation in 1926, 1927 and 1928. It was not until 1929 that, obviously realizing that such relief would not be forthcoming, it adopted a nineteen-system plan, subsequently (in 1932) reduced to eighteen systems.

It should be realized that the Commission's plan was little more than a mere gesture. In reporting it the Commission stated:

> Section 5 (5) provides that after we have adopted a plan, as we here do, we may, either upon our own motion or upon application, reopen the matter for such changes or modifications as in our judgment will promote the public interest. Such applications will afford opportunity for further consideration upon adequate and recent records of the various parts of the plan.

One of the commissioners, in a separate concurring opinion, said:

> Although I do not approve of it in important respects, I concur in the adoption of the consolidation plan above outlined because it has many good features, because it is necessary under the law to adopt some plan, and because it is not very important, after all, whether or not it is the best plan that could be devised. We may modify it at any time hereafter, and no consolidation for which it provides can be accomplished until we have found, after full hearing, that the public interest will be promoted thereby.

It will be observed that from the passage of the Transportation Act of 1920 until the announcement by the Commission of its consolidation plan, on December 9, 1929, the law forbade the consolidation of railroads in the United States into single systems for ownership and operation. The announcement of the Commission's plan, therefore, did not remove the statutory bar to such consolidations until after the financial crash of 1929, and no consolidations under the Commission's plan have been effected. It is a matter of mere speculation as to what

would have occurred had the Commission's plan been announced during the so-called boom, and at a time early enough to permit the formulation and completion of consolidations before the October 1929 crash. It can be stated with some confidence, however, that even had the crash not occurred, many of the specific consolidations prescribed by the Commission's plan would not have been favored or attempted by many of the railroads which would have been affected. Some, probably all, of the eighteen systems included railroads with demonstrated lack of earning power, and many included lines that really should not be consolidated with any system, but should be abandoned. I have not been able to discover in connection with many of the proposed systems what benefit they promise to strong lines in exchange for the permanent and continuing sacrifices which their adoption of lines known to be valueless would involve.

The Transportation Act required that in the grouping of the railroads competition should be preserved as fully as possible; wherever practicable, existing routes and channels of trade were to be maintained; and the several systems were to be so arranged that the cost of transportation between competitive systems, and as related to the values of the properties through which the service was to be rendered, should be the same. As theory this of course is attractive, because one assumes that the process is one of equalization of cost through increase in economy. It should not look to equalization through increase of cost, yet ordinarily such an increase will be the natural result, if major lines in stronger earning position are to be burdened with the difficulties of the weaker lines.

I would hesitate to say that no such system will be created in the relatively near future, and while under present conditions the Commission's plan as a whole certainly could not be consummated even if it had the supporting confidence of the Commission and that of the industry, both of which it seems to lack, yet it must not be forgotten that Congress adheres to its policy favoring some broad consolidation scheme. Indeed, Congress expressly reannounced that policy in 1933 by amending section 5 of the Commerce Act so as to forbid acquisitions of control not in harmony with the Commission's consolidation plan.

The Transportation Act of 1920 drew a distinction between consolidations of railroads into single systems for ownership and operation, on the one hand, and acquisitions of control of one carrier by another by lease, stock purchase or otherwise. It forbade consolidations, as I have stated, pending the adoption of a nation-wide consolidation plan by the Commission. It did not forbid acquisitions of control but facilitated them by affording means to escape the impediment of restrictive state statutes and federal anti-trust laws, providing that neither should prevail against public convenience and necessity found and certified by the Interstate Commerce Commission.

Such acquisitions of control occurred frequently during the period following the enactment of the Transportation Act of 1920. During the ten-year period 1923 to 1932, inclusive, certificates of public convenience and necessity were granted by the Commission in a multitude of cases affecting nearly forty-one thousand miles of line, or more than 16 per cent of the entire mileage of road owned in the United States. The fact that during ten years the control of so large a part of the entire mileage of the country has been rearranged in such proceedings indicates that in the industry there is continually under way a natural process of coördination. It also leads to the serious thought that the industry will respond to its own needs and take advantage of its own opportunities, under the supervision of governmental authority for the protection of the public interest, with more certainty than can be expected as the result of a more ambitious nation-wide plan under which the industry is to be planned in advance and adjusted as a whole, rather than piecemeal. I do not wish to be understood to oppose the more ambitious plan in its entirety. Time may demonstrate the wisdom of much of what it proposes. I simply utter the word of warning that its wisdom as a whole has not been demonstrated, that the Commission itself is not wholly committed to it, and that the theory that such a plan will largely solve all railroad problems in all likelihood is fallacious.

Personally, I doubt whether the broad scheme for consolidation of all railroads into a limited number of systems will ever be carried into effect. I know, however, that there are some who may differ with me as to this, and of course the creation of some consolidations, less than all, can be visualized much

more easily. Perhaps, therefore, extensive unification of terminal facilities, especially at great cities, should be approached cautiously until the outcome can be better known.

Most of the important terminal unification plans involve the abandonment of much property which would have to be surrendered at substantial sacrifice of value, and which, if surrendered, could not be retaken for railroad use except by the expenditure of almost prohibitive sums. Most of them require the assumption of great contractual obligations which could not easily be escaped or which could be escaped only with great injury to other railroads dependent upon them. Practically all of them involve substantial dislocation of, and consequent continuing obligation to, labor.

Indeed, it seems obvious that consolidation of units of railway service or facilities cannot be undertaken intelligently without according some recognition to the necessities of the railroad systems to which such unifications would be appurtenant, if the policy demanding the creation of such systems is to be taken seriously.

On June 16, 1933, there became effective the Emergency Railroad Transportation Act, one of the purposes of which was to encourage and promote or require action on the part of the railroads designed to avoid duplication of services and facilities and to promote the joint use of terminals and trackage incident thereto or required therefor. The Act created the office of Federal Coördinator of Transportation, divided the carriers into three great regional groups, and prescribed the establishment of regional coördinating committees representing the carriers of each group, with the duty to carry out on their own initiative the purposes of the Act, in so far as they could be voluntarily accomplished by the carriers. The Act further provided that in the event of the inability of such committees, legally or otherwise, to carry out such purposes by voluntary action, they should recommend to the Coördinator that he give appropriate directions to the carriers by order. The Act undertook to authorize the Coördinator in such cases to issue and enforce such orders, if he found them to be consistent with the public interest and in furtherance of the purposes of the legislation.

Section 7 (b) of the Act provided that the number of employees in the service of a carrier should not be reduced, by reason of any action taken pursuant to the authority of the legislation, below the number of employees in service during May 1933, after certain deductions, and also provided that no employee should be deprived of employment such as he had during the month of May 1933 or be in worse position with respect to his compensation for such employment, by reason of any action taken pursuant to authority conferred by the Act.

At the time of the enactment of this statute there were organizations of railway executives in each of the three regional groups engaged in studies of the same general character, in the main, as those prescribed by the Act, though not nearly so extensive as those subsequently undertaken by the Coördinator. While the express language of section 7 (b) indicated its applicability only to action pursuant to the authority of the Act, on August 7, 1933, the Coördinator addressed a communication to the regional coördinating committees, in which he agreed that it was not the intent of section 7 (b) to interpose obstacles to economies which carriers might be able to accomplish in the ordinary course of management, but declared it to be the clear intent of the Act that its labor restrictions should apply not only to economies resulting from action by the Coördinator but also to economies resulting from "the impetus given by the Government in the Emergency Railroad Transportation Act, 1933, to collective carrier action through the agency of the Regional Coördinating Committees which the Act created." Declaring further that the committees which were in existence when the Act was adopted bore the earmarks of a device to avoid the provisions of section 7 (b), he announced that he assumed jurisdiction over, and that he thereby made subject to the provisions of section 7 (b), all projects for joint action by two or more separately operated carriers involving unification or joint use of facilities of every sort, including terminal facilities.

Shortly thereafter, in a communication addressed to the Executive Secretary of the Southern Regional Coördinating Committee, under date of August 21, 1933, the Coördinator asserted his power, and his intention by his communication of August 7, 1933, to bring within the range of the labor restric-

tions of the Act all the projects to which that communication referred, including "future joint projects which might be accomplished without any resort to collective action by the carriers of the region through such organizations as the general committees and sub-committees working therein."

However serious the legal question as to the validity of this action of the Coördinator, the practical result was that, whether lawful or not, it prevented the possibility of early completion of any such proposed coördination. The effect of the labor provisions themselves was to confine the activities of the Coördinator to those incident to investigation and studies, and his action to which I have referred made it impractical for the carriers to proceed independently.

In his first report the Coördinator made the following statement with reference to this situation:

> It had the further result of bringing within the range of Section 7(b) practically all coordination projects involving labor-saving economies. Because of this situation, no orders have been issued and the Coordinator's work has largely assumed the character of research into the possibilities of coordination. (Appendix I, Coördinator's Report, June 16–December 31, 1933.)

There may be a general misapprehension of the nature and results of the researches which the Coördinator conducted. I shall discuss them briefly, not in a spirit of criticism but only for the purpose of pointing out that they have led to an exaggerated idea of the possibilities of economies that may be accomplished through coördination of terminal facilities. There seemed to arise the general belief, which still obtains in some quarters, that the Coördinator discovered and announced opportunities for enormous economies available to the carriers, if they were only willing to seize them. It was not, and probably is not now, generally understood that these studies were without finality and, as I shall point out presently, were largely speculative. Even high officers in other departments of the government fell into the common error of attributing to these studies the finality and credibility which they lacked. The then Solicitor General of the United States and other representatives of the Department of Justice, in a brief filed March 1935 in the Supreme Court of the United States, referred to the studies as "highly practicable opportunities for coordina-

tion" by which "economies of as much as $50,000,000 a year can be effected by coordination of terminal facilities alone", and distinguished these studies from "other large savings which have not yet been definitely computed." [1]

No doubt these studies do contain much information that may prove useful, and quite possibly many of them make proposals which might be discovered to be practical. But fundamental error underlies all of them with which I am familiar and discredits their promise of economies. To illustrate this I shall refer to the very important matter of the proposal for the unification of the Chicago terminals, studies as to which were conducted under the direction of the Coördinator's Western Regional Director. I am sure, however, that the Coördinator did not personally participate in the details of the coördination groupings.

The coach yard of a railroad should be close enough to its passenger station to avoid extensive switching, in order that promptly upon the arrival of trains passenger train cars may be placed in such yards to be cleaned, inspected and made ready for further service. Moreover, passenger train consists for the same trains differ on different days; frequently it is found necessary to add one or more cars of various types after a train is made up, to take care of an unexpected number of passengers or to take care of delayed or unexpectedly large quantities of mail or express.

The Chicago plan contemplates that the service and repair of the passenger power and cars of a certain important Chicago line, which are now performed at a location close to its own present tracks and depots, would be performed at a point remote from its present tracks and facilities located on another railroad some five miles distant. This would involve at least one hour of additional time and four additional miles of movement each way for every train. It would deprive this line of its present valuable flexibility in meeting emergencies in changing or adding to the consists of trains and in respect to bad order cars; it thus would seriously impair its service to the public; and it would substantially increase operating costs. I should add that the line under discussion would be required to

[1] Reply brief for Petitioners, Railroad Retirement Board *et al.* *v.* The Alton R. R. Co. *et al.*, No. 566, October Term, 1934, pp. 22-23.

operate its passenger trains over a route, already badly congested, into a station which even now is not well able at all times to take care of the business which it undertakes to serve.

It is very desirable that forwarding and receiving freight stations be at a single location. Freight train yards usually are located as conveniently as possible to the freight station, ordinarily in or adjoining the industrial area served. Thus loaded cars may be set promptly for unloading and empty cars may be moved promptly for loading. The inbound and outbound freight houses of the particular line I have mentioned are now conveniently adjacent to each other in the business district of Chicago. The Chicago plan proposes that these be so relocated that the inbound freight house would be about eleven miles from the outbound freight house, despite the impracticable and difficult and expensive operating situation which would result. The proposal would also involve the rerouting of that line's freight trains in the terminal in such fashion as to require several miles of excess switching over that now required to serve various team tracks, freight houses and industries. The Chicago plan further contemplates the rerouting of freight trains of the line in question for a considerable distance outside Chicago, making necessary an expenditure of over two million dollars to provide the necessary handling facilities.

It is not necessary that I discuss the Chicago plan in greater detail. It is a major proposal, of course, and naturally it gives rise to a greater number of objectionable features than do such proposals at points of lesser importance, but I believe some one or more of the objectionable features displayed by the Chicago proposal will appear in practically every terminal unification study, small or great, which I have considered.

In my opinion it is sufficiently apparent that individual interests have been largely disregarded. This is not accidental, nor does it arise from deliberate desire to put any line to disadvantage or expense. In great measure it is the natural consequence of the fundamental error, which underlies not only the Chicago plan but also every other terminal unification plan, with which I am familiar, resulting from a study conducted under the direction of the Coördinator.

This fundamental error lies in the fact that all these studies with which I am familiar were made upon the basis of the assumption that private ownership by the several railroads of their several facilities and properties should be disregarded in framing the projects, and in estimating economies to be expected therefrom. It was the specific direction of the Coordinator's staff that this course be followed by the railway executives assigned to this work by the regional coördinating committees, and these directions were obeyed.

I have been informed that the Coördinator believed that studies of this character would avoid the necessity that a substantial amount of time be given them by the chief executives of the railroads, and believed that such studies, when completed, would afford a basis upon which the Coördinator and the interested chief executives could give consideration as to how the matter of coördination could best be handled. While I think this approach to the problem was a mistake, I do not wish that statement to be construed as criticism of the Coördinator. He had a large matter to deal with, and no beaten trail to follow. Nevertheless, in my opinion this disregard of ownership, and disregard of the right of railroads to compensation for the use of their properties, created an unworkable standard, enhanced estimated economies, and resulted in conclusions, which could hardly be intelligently rectified by adjustment for the erroneous assumption on which they were made. Certainly, if ownership was ignored in order to facilitate further study by chief executives, the studies cannot be treated as credible till someone rectifies them.

In addition to this fundamental fault there are other reasons why the plans presented by these studies lack practicability. According to my observation, it was very seldom, in connection with such proposals, that there were any benefits accruing to one railroad to offset the loss of property abandoned, or to reimburse it for the use of its property by another railroad. I would add that lands acquired at substantial prices because of the desirability of their location for railway facilities would be of little value following abandonment.

Public convenience does not permit that scheduled hours of arrival and departure of either freight or passenger trains at important points shall be uniformly distributed throughout the

day. Most travelers prefer to arrive early in the day and leave in the late evening, thus traveling at night. Most recipients of freight prefer to receive their shipments early in the day in order that they may be available for distribution on that day's market. The result is that during the early and later hours of the day there is a peak of traffic which must be handled in a terminal. This situation is made more difficult by the fact that both express and mail move on passenger trains and must be handled at the same peak periods. All of these facts seem to be overlooked or not taken sufficiently into account in some of the studies for coördination of terminals at important points.

The studies were based on traffic analyses confined to short periods, sometimes two months, sometimes one month, sometimes three days, two days, or one day. From such analyses hypothetical traffic volume and characteristics were computed or assumed. In my opinion it is doubtful whether the true situation can be arrived at in this way. Moreover, these studies were made at a time when business was at a very low ebb. Even the partial revival of business which has occurred since the studies were announced serves to disclose that the unified facilities proposed in some instances would not suffice to take care of the combined business which it is proposed they should handle. In 1933 freight car loadings of Class I railroads in the United States were only 56.6 per cent of those of 1928. This means that a terminal unification designed to take care of 1933 traffic volume would be subjected to a 76.7 per cent increase in service demand, if traffic volume of 1928 should be restored.

There are many other defects. Some relate to cost, some to expense, some to uncompensated surrender of property values, some to unreasonable competitive disadvantage. I shall not attempt to recite them. My purpose will have been served, if what I have said, and the illustration I have given, sufficiently emphasize the point I am making; namely, that one of the largest of the problems which stand in the way of terminal coördination is the difficulty of clearing the public mind of the belief that it is a field already fully explored, in which rich possibilities are already appraised, requiring nothing more than a willingness to do the things which it is erroneously believed the Coördinator has shown can and should be done.

My comments are not intended as criticism, unless criticism is to be implied from frank recital of the facts.

The situation cannot be depicted correctly without some further reference to the attitude of railroad labor. Railroad labor was quick to realize that savings resulting from coördination of facilities and unification of railway activities in large measure would be due to reduction in number of railway employees. Since section 7 (b), to which I have already referred, was temporary legislation which might expire on June 16, 1935, labor caused to be introduced at the last session of Congress proposals designed to assure permanent provision for dismissal wages or other allowances to employees displaced or disturbed by coördinations accomplished by the railroads under private management.

This demand went considerably beyond the relief accorded by section 7 (b). Many railway executives felt that there was merit in the principle underlying it, although I think it can be said they felt that it went farther than either principle or practical necessity would justify. However that may be, on May 21, 1936, an agreement was reached between labor and practically all the Class I railroads, establishing fixed rules for the treatment of labor so disturbed or displaced. I shall not go into the detail of this agreement further than to state that it provides, under stated formula, for alternative forms of what I may call, perhaps inexactly, coördination allowances.

While this agreement does not facilitate the coördination of terminals and terminal trackage—or, for that matter, any other coördination—it at least clarifies the situation by specifying the price which the railroads must pay labor for the privilege of coördination, and in that way makes intelligent study of terminal coördination easier.

I believe that there are opportunities for the betterment of the railroad situation by unification of some and perhaps many terminals. Whatever the errors which underlie studies made by or for the Coördinator, those studies have resulted in railroad management seeing terminal unifications more objectively and giving thought to them more earnestly and more concretely, which, quite probably, was one of the important things at which the Coördinator aimed. Railroad management is more alert to the possibilities of benefit along this line. The

problem of the effect on railroad labor, while possibly not wholly solved, at least has been brought down to earth and stated, so that railway management may know what to expect.

I, therefore, believe that the opportunities which lie in this direction are more readily discoverable, and will be more freely taken advantage of, than a few years ago. Consideration of such proposals should not be postponed or put aside and forgotten. I wish to emphasize, however, that each unification problem is a separate problem. It is not only individual as to the project but it is individual as to each railroad a party to the project. Each case must be considered on its merits by each railroad, and no case should be hampered by the belief that because it is a proposal for unification it necessarily is meritorious. No railroad should be expected to suffer a substantial loss in order that other railroads, parties to the same project, may gain thereby.

Remarks by the Chairman

Mr. Thomas W. Lamont: You have listened to these two admirable addresses, and I shall take only a few minutes to supplement what they have said by giving you one or two additional aspects of the problem.

ASPECTS OF THE AMERICAN RAILROAD PROBLEM

THOMAS W. LAMONT
Of J. P. Morgan & Co.

FOR many generations of Americans the covered wagon has been the symbol of pioneer transportation, of that hardihood and determination which set this nation of ours upon its way to conquer a continent. It was the covered wagon that bore hardy veterans of the American Revolution from the Atlantic seaboard west to the fertile fields of the Mississippi Valley, and in turn carried their intrepid sons and grandsons on to the sunny slopes of the Pacific.

The covered wagon of those early days has become the stream-lined mechanism of today — the Diesel-powered train that dashes from Chicago to Denver, well over a thousand miles, between dawn and dusk; that lands the traveler in Los Angeles less than forty hours from Chicago.

Ups and Downs of Past Years

It was just about a century ago that railway building started in the United States. Soon state legislatures were passing laws to attract investors who would build railroads and plot out town sites. Congress provided great subsidies to tempt groups of capital to speed up the establishment of a transportation system that would connect every village and hamlet with the outside world. As a consequence—for we Americans never do things by halves—capital plunged into an era of railroad building far beyond the existing demand. The ensuing collapse of values was a great factor in bringing on the serious business depression of 1857.

Twenty-five years later the country was emerging from the great and prolonged depression that had followed the Civil War by a few years. As in every great war, there had been vast inflation followed by a cruel deflation, a sequence as dark and as inevitable as the night that follows the day.

The ensuing recovery of the early '80s brought a new railway building boom. And again there came the aftermath when, in the depression which ran from 1893 to 1896, twenty-five per cent of the railway mileage of the country fell into receivers' hands. Those systems which were sturdy enough to weather that storm and the others which were drastically reorganized at that time are, speaking generally, the ones on whose strength we are able to rely today.

An Ailing Industry Today

Nevertheless, we have today the melancholy spectacle of about 28 per cent of the country's railway mileage in the bankruptcy courts, or going through forms of reorganization. How has such a serious state of affairs come about?

Let me mention some figures that give an idea of the gravity of the railroad problem. At the moment almost 70,000 miles of railroad, representing property investment of approximately five billion dollars, are in bankruptcy or in receivership. Their securities are almost all in default. While the recent improvement in traffic and earnings is encouraging, still less than one half of the Class I railroads (those representing over 95 per cent of the railroad business of the country) are even now able to earn their annual fixed charges.

Furthermore, the carriers owe the Reconstruction Finance Corporation, the Public Works Administration and also the Railroad Credit Corporation over half a billion dollars; and, except for a few railroad systems of unusual strength, the carriers are today unable to command new capital.

How the Public Interest Is Affected

Now, how seriously does this situation affect the public welfare? My answer is, first, that the soundness of railroad transportation affects directly or indirectly every individual in the country—the grower, the manufacturer, the consumer, the investor, and labor itself, because by its very character it is essential to the success of every other enterprise, including agriculture. Including the families of employees there is an army of three million citizens whose livelihood is directly dependent upon this industry.

Second, there are fully 30 million citizens with a financial interest in the railroad industry. Of the eleven billion dollars

of railroad bonds outstanding, almost one half are owned by savings banks and insurance companies. This means that millions of savings banks depositors and holders of insurance policies, whether they all know it or not, have a vital interest in the integrity of these securities. Almost two billion dollars additional of railroad bonds form part of the endowment of churches, hospitals and educational or charitable institutions.

Think, next, of the prodigious consuming power of the railroads when normally they purchase in each year over a billion dollars of goods. The Department of Commerce has stated that nearly a quarter of the country's annual output of bituminous coal, one fifth of all the fuel oil, and about 17 per cent of the country's iron and steel output are utilized by the railways. Thus the railroads are truly a bulwark of our national economy. To keep them sound is a matter of paramount concern to all of us.

Certain Points of Difficulty

What, then, is the chief difficulty? It does not lie solely in the reduced volume of goods transported. Even with returning prosperity, railroad revenues on the average are insufficient to render proper service, and to make decent return upon the actual value of the property as determined by the Interstate Commerce Commission. Take, for example, 1935, a year far better than the low period of the depression. How was each dollar of gross railroad earnings applied? Forty-five cents went directly to labor, twenty-five cents to fuel and supplies in which labor costs largely figured, seven cents to taxes, eight and one-half cents to rental of equipment and incidentals, and the remaining fourteen and one-half cents represented earnings of only 2 per cent upon the $25,000,000,000 investment.

The point is that as years have rolled by freight rates have been materially lowered, and certainly the tendency in the future should not be toward higher, but toward lower, rates. Lower rates have been brought about in part through competition among the railroad systems themselves, and very particularly through competition with new forms of transportation, such as motor trucks, busses, air lines, pipe lines and water carriers. But as rates have gone down many costs have been going up.

Staggering Burden of Taxation

Another trouble is taxation, heavier by far by our states and municipalities than by the federal government. The railroads are fairly staggering under the burden of taxation. Their taxes increased from $44,445,000 in 1900 to $402,698,000 in 1929, thus multiplying themselves nine times during a period when railroad property investment increased only two and one-half times.

Then there is the Railway Retirement Act, whose constitutionality is at present before the courts. The Bureau of Railway Economics estimates that on the basis of 1935 pay rolls there would be put on the railroads an additional annual burden of $57,000,000, which is equivalent to one fifth of the total earnings in 1935 that accrued to the owners of the railroads. Add to this the Social Security Act of 1935 which provides for unemployment insurance, calling for $16,000,000 taxes in 1936, $32,000,000 in 1937 and $48,000,000 in each year thereafter. There will also be additional taxes through the increase in the income tax rate as well as in the rate of tax on capital stock.

Other Cost Increases

All this is above and beyond the movement now on foot, as manifested by a bill introduced in the last Congress, for a six hour day with no reduction in total wages paid. Can such constant and heavy increases be borne by the present frail structure of earnings? To bankrupt railroad transportation through the operation of wages, hours and working conditions alone is not at all inconceivable.

Do not understand me as disparaging legislation looking toward the betterment of working conditions. But you cannot get blood out of a stone. Commendable as is the purpose animating these projects, we have to realize that the railroads themselves are among the nation's poor today.

Government Regulation over the Years

With national and state legislation adding such heavy burdens to the railroad carriers, we naturally approach the whole question of governmental regulation as it has worked hitherto. Congress passed the initial Act to Regulate Com-

merce in 1887. Under it the Interstate Commerce Commission was appointed. It was high time that adequate governmental regulation should be undertaken. Violent rate wars were being waged, unsettling to shippers, disastrous for carriers and investors. Special rebates to favored shippers had reached a point of scandal.

The original Act was designed not to encourage ruinous competition but to do away with it. And during the thirty years following the enactment of this law the public enjoyed good railroad service at reasonable and generally stable rates. The results in the main were beneficial to both the railroads and the public. Small and weak units were encouraged to ally themselves with larger ones. In this way strong systems, advantageous to the whole community, were built up—units like the New York Central, the Pennsylvania, the Southern Railway and the Atlantic Coast Line, as examples.

But the statute law and court decisions discouraged further railroad consolidations, and high pressure competition again became a mark of the industry. Such competition led to inevitable and excessive duplication of facilities and services.

A Restrictive Tendency

Gradually, moreover, as amendments (some of them well designed in themselves) were added to the original law, measures of regulation were carried so far that as Winthrop M. Daniels, for nine years prior to 1923 a member of the Interstate Commerce Commission and since then Professor of Transportation at Yale University, stated: The regulatory measures became " progressively hostile and restrictive."

With the return of the railroads to private management upon the close of the war, Congress attempted to meet the serious situation in terms of the Transportation Act of 1920. This Act imposed upon the Commission a duty which it was very likely impossible to carry out. It had to set up a standard of railway rates which would be just to the public, and which at the same time would enable the railroads under efficient management to furnish adequate service and to earn a fair return upon the value of the properties.

Consolidations the Aim

For the effective carrying out of this eminently sound principle the Commission was instructed by the Act to formulate a plan of consolidation of the railroads into a limited number of well-balanced, soundly financed, and competently run systems. However, the Commission's comprehensive plan involving national consolidations was not presented until over nine years later, in 1929, and since then hard times have made progress impossible on any such scale as the Commission outlined.

Many Groups in Opposition

Now I have no intention of attempting to appraise the blame for the manifest failure of the Act in its mandate for railway consolidations. The apparent impasse has been due to a variety of causes. Shippers and the public generally have set up frequent and strenuous opposition. Almost every big town or community in the land relishes the idea of enjoying duplicate or even triplicate facilities in railroad transportation at its doors, and such centers have displayed slight interest in the deficits of the railroads serving them.

The governments of states, through which parallel and competing lines have run, have opposed consolidations, partly because they have feared to lose duplication of taxes which they now enjoy from parallel and competing lines.

Labor has frequently been in opposition, fearful that many of its number would be thrown out of employment in a series of consolidations. A formula on this point has now been at least tentatively reached through the Washington conferences between the railway executives and labor representatives.

Also, many of the great railway systems have held back, feeling that the Commission's plan, which manifestly coupled many of the weaker roads on to the stronger, gave no assurance that traffic rates could be maintained on any such scale as would enable the strong roads to earn the "fair return" contemplated by the Transportation Act, and thus to carry the weak roads.

Motor Transport Ignored

One fundamental weakness of the Act, moreover, as the situation developed, was that it was based on the theory that the railroads enjoyed a monopoly of transport. The hearings prior

to the passage of the Act contained almost no allusion to motor transport, although even in 1920 there were 10,000,000 motor vehicles (mostly passenger, to be sure) on the American highways. And that number has now been increased to over 26,000,000. This includes, of course, trucks, busses and motor cars. Within ten years, too, the extent of surfaced highways was doubled, and today is equal to four times existing railroad mileage. We are all aware of the growth of air transport and pipe lines. Thus before the liberal Act of 1920 had begun to function, the theory that the railroads enjoyed a monopoly had flown out of the window. In fact, Mr. Eastman's report as Coördinator, dated January 21, 1935, says: "The rapid development of competition with the railroads from other forms of transportation has made the emphasis in the Act upon the preservation of railroad competition unnecessary in the public interest."

Subsidies for Water Carriers

Another formidable form of competition has arisen from the federal subsidies granted directly or indirectly to coastwise and to inland water carriers which have been able, through lower rates made possible by this federal assistance, to deprive railroad lines of much of their traffic.

Let me again emphasize that it is quite contrary to my purpose to give the impression that the great, strong systems of the American railroad world are in a bad way. I am pointing out that in the present situation the weaker roads seem to have an almost hopeless uphill task, and that the industry as a whole is in the slough. As to the future, at least one thing is plain: With the extraordinary development of the internal combustion engine (so advantageous to the public at large), and with the devastating inroads being made upon the traffic, both freight and passenger, of the railroads; with the difficulty of increasing railway traffic on any grand scale; the problem before the railroads is how to bring about great and sweeping economies in operation.

The Record of Fifty Years

How can this be done? It is true that the first federal act of fifty years ago was designed to do away with ruinous com-

petition among the railways. But, as I have indicated, in the last twenty years they have suffered sorely on three accounts. First, our so-called anti-monopoly laws again forced competition upon them in the early years of the century, and railroad administrations themselves expanded their facilities and increased their fixed charges on a wholly unprecedented scale. Second, as Professor Daniels has pointed out, governmental regulation became increasingly restrictive and difficult for the roads to work under and still make any fair return to those who provided their capital. Third, the prodigious development of the motor for both freight and passengers, with its obvious desirability for certain forms of transportation, has furnished the form of competition perhaps most difficult to meet.

No Ready-made Formula Possible

In the existing situation, as I see it, there is no ready-made solution available. It is clear that what has blocked consolidations up to date has been the unreadiness of all sections of the American public to accept the compromises necessary to effect sweeping consolidations. Certainly such consolidations cannot be forced down the throats of all concerned unless the government steps in and does the forcing. That would probably mean "government ownership".

Now, that phrase can, so far as the railways are concerned, be discussed without heat or fury. Yet, of course, such a step would not be my solution. Government ownership might result logically in elimination of competition among the railways. But still, with competitive highways, waterways and air lines, with alarmingly increasing labor costs, where would the government come out? And if the government owns the railroads of the country, will it be able to avoid going a step further? Can it avoid taking over the whole transportation machinery, trucks, busses and water carriers; or will it, by subsidies to competitors, destroy its own investment in railroads? No, I believe that private management still has a far better chance of solving the problem, always provided it has the enlightened and liberal coöperation of government.

Difficulties of the Problem

I have no illusions as to the immense difficulties of arranging regional consolidations. To a layman like myself, never familiar with the technical aspects of railway operation, but for many years deeply interested in sponsoring the issuance of sound railway securities, it would seem that such consolidations on a large scale, or some pooling of operations, voluntarily initiated by the railways themselves, can provide the only ultimate solution of the American railway problem today.

It would be futile to discuss the railroad problem without a frank exposition of the difficulties it presents. Without a blunt and honest diagnosis there can be no adequate remedial treatment. Yet I do not wish to be understood as complaining of the things which I have sought to explain. The Interstate Commerce Commission is an honest, diligent and high-minded body which has dealt as best it could with a most difficult problem. Mr. Eastman here and his associate members of the Commission have the respect of the railroad world and of the world of finance. The Reconstruction Finance Corporation and other government bodies have been most helpful in tiding over the emergency. Successive administrations at Washington have shown every desire to see a constructive policy adopted. The appropriate committees of Congress have given much attention to the problem.

Prosperity for All or for None

As to labor: high wages and good working conditions are greatly to be desired. So is steady and plentiful employment. There can be no prosperity for the country or for the railroads that is not based upon the prosperity and welfare of labor. But —and note this well—there can be no prosperity for railroad labor that is not based upon the solvency and prosperity of the railroads.

It would be stupid as well as futile to complain of good roads and motors, of canals and rivers and pipe lines and airways, or to seek to throttle the growth of these magnificent means of transportation. These things we have and are grateful for and we want, and shall have, more and more of them.

All Around Coöperation Essential

Finally, the railroads and investors in such properties are, it seems to me, recognizing the developments and tendencies in the modern world of transportation. Our only hope—and it is a hope which I strongly cherish—is that on all sides there will be further quickening of understanding. That means among the railroads themselves, on the part of labor as well, and as already shown, on the part of government. Only through coöperation on a scale more sympathetic and active than ever before, shall we be able once more to have prosperous railroads that will efficiently and economically serve the great American public. That is the sole reason for their existence.